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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Holy, holy, holy, Lord God of hosts, speak to our lawmakers and fill them with bright memories, holy commitments, and deep resolve. May their bright memories remind them of the way You have guided and protected this Nation throughout the seasons of its history. May their holy commitments prompt them to be true to their duties to stand for right though the heavens fall. May their deep resolve motivate them to not become weary in doing Your will. Lord, remind them that without Your power, human efforts are useless.

Today, bless the women and men of our armed services. Place Your shield of protection around them and their loved ones.

We pray in Your mighty Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUE).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 29, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUE,
President pro tempore.

Mrs. GILLIBRAND thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

MEASURE PLACED ON THE CALENDER—S. 3663

Mr. REID. Madam President, it is my understanding that S. 3663 is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title for a second time.

The bill clerk read as follows:

A bill (S. 3663) to promote clean energy jobs and oil company accountability, and for other purposes.

Mr. REID. Madam President, I object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar under rule XIV.

SCHEDULE

Mr. REID. Madam President, following leader remarks, the Senate will resume consideration of the small business jobs bill. There will be an hour of debate prior to a rollcall vote on a motion to invoke cloture. The hour will be equally divided and controlled between the two leaders or their designees, with

Senators permitted to speak for up to 10 minutes each. The final 10-minute block is reserved for the two leaders, with the majority leader controlling the final 5 minutes. Senators should expect a cloture vote around 10:40 this morning.

BIPARTISANSHIP

Mr. REID. Madam President, both parties claim they are friends of small business. This bill gives Members of both parties the opportunity to prove it. This is not just talk. Listen to what this bill has in it.

This bill is called the Small Business Jobs Act of 2010. There is a small business access to credit provision. SBA estimates the loan limit adjustments will increase lending to small business by \$5 billion within the first year of its enactment. This is a bipartisan provision: Landrieu-Snowe.

Small business trade and export promotion: It is believed this will save and create as many as 50,000 jobs this year.

Small business contracting: Increasing contracts to small business by 1 percent could create more than 100,000 jobs. This is bipartisan: Snowe-Merkley, Landrieu-Snowe, Landrieu-Crapo-Risch.

Small business management and counseling will create or save more than 10,000 jobs in 2011. It is bipartisan: Snowe-Landrieu.

Small business disaster loan improvements: This is also supported by Landrieu and Nelson of Nebraska. This is not bipartisan, but everyone knows these two Senators work on a bipartisan basis on virtually everything they do.

Small business regulatory relief: This is bipartisan: Snowe-Pryor.

Exclusion of capital gains tax: This allows investors in small businesses to take a 100-percent exclusion from capital gains tax on small business investments made this year. It is bipartisan: Kerry-Snowe-Menendez.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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S6459

Increased deductions for startups: Temporary increase in maximum deduction for business startup in 2010–11. This would increase the limits to \$10,000. It is bipartisan: Merkley-Alexander.

Extension of section 179: Extends small business expensing. This is supported by Senator SNOWE; it is her provision. It extends section 179 expensing provisions.

Tax equity for self-employed: Allows self-employed taxpayers to deduct health care costs for payroll tax purposes on their 2010 tax returns. Bipartisan: Bingaman-Hatch-Landrieu.

Extension of ARRA: That is the stimulus bill bonus depreciation. Bipartisan: Baucus-Grassley-Brownback-Inhofe-Johanns-Menendez.

Small business penalty relief: Makes a penalty for failing to disclose listed transactions proportionate to the tax savings. This is bipartisan: Baucus-Grassley-Crapo.

Remove cell phones from listed property: Delists cell phones and other telecommunications devices from the category of “listed property” for tax purposes. Bipartisan: Kerry-Ensign.

S corporation holding period: Reduces the asset holding period for converted S corporation from 10 to 5 years: Snowe.

General business credits not subject to AMT limits: Allows small business to use all types of general business tax credits to offset the AMT liability: Grassley.

Carryback up to 5 years: Allows sole proprietorships, partnerships and non-public trading corporations with less than \$50 million in average gross annual receipts for the prior 3 years to carry back unused credits for 5 years: Grassley.

Small business lending fund: Bipartisan: LeMieux-Landrieu. This is the one that has created all the interest all over the country, a program level of \$30 billion, which by conservative estimates would lead to \$300 billion in small business lending. It is not related to TARP. There are no TARP-like restrictions.

Utilizing predictive modeling to fight health care fraud: That is bipartisan: LeMieux-Landrieu.

Export promotion: Klobuchar-LeMieux, LeMieux-Landrieu. Very well accepted in the business community.

We have agriculture disaster relief. Bipartisan: Lincoln-Chambliss.

State small business credit initiative, bipartisan—developed with the support of 28 Republican Governors.

That is the bill. How could we have anything more bipartisan? That is why 80 different organizations support this legislation, including many Governors. The majority of the Governors support this legislation. Those who don't are maybe not familiar with it. But there are so many organizations that support this legislation.

Naming just a few, there are some 80 of them: Marine Retailers Association, people who sell boats; National Res-

taurant Association; Community Bankers for a number of States; National Small Business Association; Small Business Majority, and 76 other organizations. This is about as fair as it can be.

My friends on the other side of the aisle have indicated they want to offer some amendments. We say go ahead and do that. They can't take yes for an answer. I hope those Republicans who voted with the Landrieu-LeMieux amendment on Thursday would do so again on cloture. This is a bill that will help businesses all over America.

This bill is literally on the verge of final passage. My friends on the other side of the aisle have said the only thing standing between us and their support for final passage is giving them the opportunity to vote on their amendments. Here are the amendments they said they wanted: Grassley amendment on biodiesel; Hatch amendment on research and development; Johanns amendment on corporate reporting requirements. We said: Fine, go ahead and offer those. We will have our alternatives to those, as we do here. That is how it works. I propounded a consent that gave the Republicans votes on all three of these amendments along with the Democratic alternative.

So I wish to close by expressing my appreciation—I think I can say this without any reservation—the appreciation of the country, small businesses in America. We would not be where we are but for the work of Senator LANDRIEU and Senator LEMIEUX. Others have joined in. I had phone calls late last night with one of the most deliberate Senators. She has impressed me for so long. I got a call from Senator LANDRIEU. At her home was Senator CANTWELL, who is a truly good legislator, and the two of them worked late into the night trying to come up with support for this legislation. But it wasn't only last night. Senator LANDRIEU, as chairman of the Small Business Committee, has been tireless. I had a conversation with her today. I have been so proud of her work on the floor—great speeches that she has gotten people to give in support of this legislation.

I can remember when she was a brandnew Senator and she was working on a military issue, and the headline in a Louisiana newspaper had “Military Mary” because she was fighting so hard for the troops. She hasn't stopped fighting for the beleaguered State of Louisiana, which has had so many problems. But for her aggressive work on behalf of her State, that State would not be where it is today. It was doing so well when the oilspill came. But who has been out in front on the oilspill? MARY LANDRIEU.

So I am proud of her being in the Senate. She has great lineage. I have such fond feelings for her father who was a legend in his own time, but that legend has been caught by his daughter, MARY LANDRIEU. So Moon is very happy, I am sure, with her legislative

skills, as he should be, and as her mom is.

So anyway, thank you very much. I see my friend, the chairman of the Small Business Committee, is here. I would ask that the Record be pretty clear that there be an hour from now until the cloture vote. So I ask unanimous consent that be the case.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

SMALL BUSINESS LENDING FUND ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 5297, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 5297) to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

Pending:

Reid (for Baucus-Landrieu) amendment No. 4519, in the nature of a substitute.

Reid amendment No. 4520 (to amendment No. 4519), to change the enactment date.

Reid amendment No. 4521 (to amendment No. 4520), of a perfecting nature.

Reid amendment No. 4522 (to the language proposed to be stricken by amendment No. 4519), to change the enactment date.

Reid amendment No. 4523 (to amendment No. 4522), of a perfecting nature.

Reid motion to commit the bill to the Committee on Finance with instructions, Reid amendment No. 4524 (the instructions on the motion to commit), to provide for a study.

Reid amendment No. 4525 (to the instructions (amendment No. 4524) of the motion to commit), of a perfecting nature.

Reid amendment No. 4526 (to amendment No. 4525), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 hour for debate prior to the cloture vote on amendment No. 4519, with the time equally divided and controlled between the two leaders or their designees, with Senators permitted to speak for up to 10 minutes each, with the final 10 minutes reserved for the two leaders or their designees, with the majority controlling the final 5 minutes.

The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I wish to begin by thanking Leader REID for his very kind comments regarding the work that is going into this bill. It has been my pleasure and honor to help lead a team, actually, which the Presiding Officer has been a part of, as well as Ms. CANTWELL, the Senator from Washington; Senator MURRAY;

Senator LEMIEUX from Florida; and many others. Senator CARDIN, who I know is on the floor, is an outstanding member of the Small Business Committee and a long-time advocate of small business, serving many years in the House of Representatives, and now brings his expertise to the floor of the Senate. I like having bulldogs on my committee and he is one of them and I greatly appreciate his support.

Let me be very clear that in 1 hour, we will come to the end of a very long, important public and open debate on the best way we can help Main Street.

This bill is not about Wall Street. We have had enough of those. This bill is not about big corporations; they take up 80 percent of the agenda in this place on any given day. This bill is about the 27 million small businesses that need the Members of the Senate to stand up for them today. If we can stand up for small businesses today, they will stand up for us and lift this country out of the worst recession since the Great Depression. I want to repeat that. It will not be the big banks that do this. It will not be the big international firms that do this. As it always has been since the beginning of America, since the first small business, the first enterprise, it will be small businesses that create jobs.

For 1½ years, this debate has been going on—not 1½ weeks, not last month, but for 1½ years we have been debating, as we should as Senators, about the best way to do that. There have been differences of opinion. There have been two primary committees focused on building this package, including the Finance Committee, which has put forward in a completely bipartisan fashion a \$12 billion tax cut package for small business. The leader just spoke about some of those provisions this morning. The chairman of that committee, MAX BAUCUS, has been to the floor on several occasions to explain the extraordinarily significant tax cuts I will mention. I will mention only one.

For a decade, Members on both sides of the aisle have been trying to get the self-employed in America to have parity with other businesses when it comes to health care. Madam President, the Chair knows that her State of New York is full of self-employed people. Do they get the same tax break as General Electric? No. Do they get the same tax break as General Motors? No. These individuals who are self-employed pay more for their health care than big corporations. Is that right? No. We tried to help them in the health care bill, and we could not. We didn't give up the fight. They are in this bill—a \$2 billion tax cut for the self-employed. That is just one of the good tax provisions.

Senator REID read off the list, and I will share it with you because I know there are going to be critics coming to the floor, and unfortunately some people will vote against cloture. I hope most people are smart enough not to. If

some of them do, I want them to know we have widely distributed this red line document to every news outlet in the country. We have distributed it to many, many organizations. There are over 70 organizations supporting this. This is what we call our red line document. So there is no confusion, the most wonderful thing about this document is that it is just four pages. It is very easy to read. There are not 40 pages. It is not 4,000 pages. There are no special deals. It is all here, and it is all bipartisan.

I am going to read some of the names associated with the bill: Kerry-Snowe-Menendez; Snowe; Merkley-Alexander; Snowe; Bingaman-Hatch-Landrieu; Grassley; Baucus-Grassley-Brownback-Inhofe-Johanns-Menendez; Baucus-Grassley-Crapo; Kerry-Ensign and 72 bipartisan cosponsors equally divided between Democrats and Republicans; Snowe; Grassley; Grassley.

If somebody comes to the floor and says this bill doesn't have bipartisan support, they might want to answer why their names are here: Landrieu-Snowe; Snowe; Snowe-Landrieu; Snowe-Merkley; Landrieu-Snowe; Landrieu-Crapo-Risch; Snowe; Landrieu-Nelson; Snowe-Pryor; Snowe.

I don't know how many more items a Senator can have in a bill. Senator SNOWE wrote lots of pieces of this bill. LeMieux-Landrieu; LeMieux; LeMieux-Landrieu; Klobuchar-LeMieux; LeMieux-Landrieu; Cantwell-Boxer-Murray. That lists just a few.

So we bring a bipartisan bill to the floor, and then we have a 12-hour debate on one amendment, the first amendment, which is a Republican amendment by Senator LEMIEUX and myself—it is LeMieux-Landrieu-Nelson. Both Senators from Florida have been extraordinary in their advocacy for this. We had a public, open vote, and we got 60 votes. So now the small business lending provision is in this bill, which makes it even better, even greater, and equally bipartisan. If some people aren't happy with that—I don't write the rules of the Senate. I showed up, and that is what the rules were. If you got 60 votes, you got your amendment on the bill.

There are other Members who are coming to speak. I want to just say this has been a very vital debate. This is the time for us to say yes to Main Street. There are literally millions of business owners who not only want this package to pass, they need it to pass. If it passes now, they might be able to hold on. They might be able to create the jobs that are necessary. It is now our chance to deliver a bipartisan bill that will help 27 million small businesses on Main Street.

In conclusion, we have spent a lot of time helping big auto manufacturers from Detroit. Today, we can help that repair shop in our neighborhood. This is about corner stores. This is about small banks. Are we going to vote for them or are we going to leave them high and dry?

I see the chairman from the Finance Committee, who I think is scheduled to speak. I also see the Senator from Maryland. I will soon yield to the Senator from Maryland, a member of the Small Business Committee, to say a word, and then we have the time under our control. I am sorry, the Senator from Washington is here. I didn't see the Senator. I was blocked. I apologize. I see the Senator from Washington and the Senator from Montana and the Senator from Maryland.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I believe I was next.

Ms. LANDRIEU. I thought we had the first half hour and the Senator's side had the second, but I understand now that it is back and forth.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I rise to express my frustration and disappointment with the decision of the majority leader yesterday that seems to have effectively precluded Republicans from offering amendments to the small business lending bill that is before us today.

Let's understand one thing. Since the health care bill, we have not marked up one bill in the Finance Committee. That is just not right. These bills have been brought to the floor through a rule XIV parliamentary procedure without the impetus and agreement of all of us who are on the Finance Committee. I am not going to blame anybody for that other than to say I don't think that is the proper way to do things. Then we get here on the Senate floor and the majority leader fills up the amendment tree so that neither Republicans nor Democrats have a chance to amend this bill.

Having said that, let me say that the majority leader has put forward this small business lending bill in an ostensible effort to help the economy create more jobs. Of course, this is what every Senator on both sides of the aisle wants to see happen. This is what every American wants to see happen. Yet once again we are faced with an "it is my way or the highway" attitude in dealing with this legislation.

Let me be clear. The small business lending bill before us includes many positive provisions. I commend those who have put them in there. It has a number of tax provisions that I fully support and that Republicans and Democrats alike believe would be helpful to small business growth.

Yet, I do not believe that any Member in this Chamber truly believes that this bill would do enough to solve our job creation problem. This is because it ignores the main problems that are afflicting the economy and preventing the kind of job creation that we need right now.

This is exactly why Republicans want to improve this bill. Many parts

of the bill are fine as far as they go. But, again, they do not go nearly far enough.

One of the amendments the Republican leader was trying to get permission to offer to this bill is a motion I would like to make to commit this bill to the Finance Committee with instructions to report it back to the Senate with an amendment to address the biggest problem facing small businesses at this time. And that problem is the threat of the largest tax increase in history that is due to hit this country like a monster tsunami in just 155 days.

In just over 5 months from now, on January 1, a good share of America's most prolific potential job creators—small businesses that generally employ between 20 and 500 workers—are going to face large tax increases unless Congress acts to stop them. The problem is that President Obama and many of his allies in Congress have already made it clear that they have no intention of stopping these increases.

The President called on the Senate yesterday to pass this legislation to help small businesses so they can create jobs. But, ironically, he and his supporters just cannot seem to see that their support for allowing these massive tax increases to hit these fastest growing small businesses will do far more harm than the good that could come from this bill as it now stands.

The bill before us, while well intentioned, misses the boat.

The real problem that this bill does not address is that the threat of these tax increases, combined with the other business unfriendly changes this Congress has recently passed, have created such an atmosphere of uncertainty in this country, that no one wants to take the jump and risk their capital on new business ventures or expansions. These other changes include the recently enacted financial regulation bill, the tragically misguided health care bill from earlier this year, and the menace of a monstrous climate bill that still hangs over our heads.

Let us briefly review what it takes to create a private sector job in our economy. First, we need an entrepreneur—a risk taker. Second, we need an idea. Third, we need some capital. Finally, we need some certainty so that the risk the entrepreneur is facing is manageable.

We have plenty of entrepreneurs in our economy. America has always had these, and they are a big part of what has made this country great. We also have lots of good ideas for new businesses. This is another area in which our Nation has never lacked.

We also have lots of capital in our economy. Studies indicate that banks are flush with money and corporations have more cash on their balance sheets than at any time in the past 50 years. Investors have money too and are just waiting for the last ingredient.

And that last ingredient is what is missing. A degree of certainty that the

business climate will begin to improve, or at least not get any worse. This means stable tax rates, a manageable level of regulation, and customers who are not worried about the future.

But if we have a situation, as we have now, where the investors and entrepreneurs cannot see any real stability, risk taking freezes up. Everyone decides to stand on the sidelines and wait it out and see how things look in a few months, or next year.

The result of this inaction is that the new expansion to the manufacturing plant is put on hold, the bank loan is not extended, and the new equipment is not ordered. The result, of course, is that the new job is not created, and everyone stands and waits.

Many of my friends on the other side of the aisle and in the administration seem to be puzzled as to why the economy has not yet started to create the jobs we so desperately need. After all, the huge stimulus bill that they pushed through last year was supposed to solve these problems.

A very big part of the reason for this lack of jobs is this terrible uncertainty, which has a corrosive effect on the economy. We need to add the lubricating oil of lower taxes, fewer regulations, and certainty to the engine of economic growth.

Instead, we have been adding the acid of uncertainty to the engine—uncertainty about higher taxes, uncertainty about a worse regulatory climate, and uncertainty of what might come next. It is small wonder that the engine is not working as it should.

What little certainty that might have existed in the recent past has surely been evaporating because of the President's broken pledge to not raise taxes on those making less than \$200,000 per year and the Democratic leadership's obvious willingness to allow these huge tax increases to go into effect for millions of Americans.

This attitude is often excused by the misguided belief that the "rich" are not paying their fair share of taxes and need to contribute much more to the Treasury.

Many of our colleagues forget that a high percentage of new and small businesses, where most of the new jobs are created in a recession, pay their taxes as individuals. This means that attempts to make the so-called rich pay more will backfire and harm the very people our liberal colleagues are trying to help—those who desperately need employment.

This is not so much a question of fairness as it is of economic reality. If we raise the top rates on individuals, we raise tax rates on small and growing businesses and stifle them from fulfilling their job-creation potential.

According to the Joint Committee on Taxation, tax increases on those making more than the limits the President has pledged to protect will attack one-half of all small business income. Owners of these small businesses, as well as those who want to invest and start new

enterprises, are frozen on the sidelines. They are not going to take the risk as long as these tax increases are hovering on the horizon. As long as they do not act, they will not create those jobs.

Let us look at the calendar. We simply do not have the time to pass small Band-Aid bills when the patient—our underperforming economy—needs a blood transfusion. We need to address the real problems facing our economy, not play around at the edges. Our first job should be to reduce the uncertainty that is throwing sand into the cylinders of the job creation engine of small businesses, and the first step of this is to remove the threat of these huge tax hikes.

Let us assure investors, entrepreneurs, lenders, and other players in the job creation machine that we will not raise taxes in 5 months. Let us dispel these clouds of uncertainty and let the private sector do what it does best—innovate and create and put America to work.

Having said all that, it is important for me to add to this discussion a few other points.

Dr. Christina Romer, Chair of the President's Council of Economic Advisers, in last month's issue of the "American Economic Review" said this:

... tax increases appear to have a very large, sustained, and highly negative impact on output.

... [T]he more intuitive way to express this result is that tax cuts have very large and persistent positive output effects.

Senator KENT CONRAD, our great Budget Committee chairman—and he is also on the Finance Committee—had this to say:

As a general rule, you don't want to be cutting spending or raising taxes in the midst of a downturn.

That was in the Wall Street Journal on the 23rd of this month.

He also said:

In a perfect world, I would not be cutting spending or raising taxes for the next 18 months to 2 years. This downturn is still very much with us, unfortunately.

He said that on CNN on the 26th of this month.

Senator BEN NELSON from Nebraska "supports extending the expiring tax cuts at least until the economy is clearly recovering and supports addressing them before the fall elections."

Senator EVAN BAYH had this to say:

And so raising taxes right now—

The ACTING PRESIDENT pro tempore. The Senator has consumed 10 minutes.

Mr. HATCH. Madam President, I ask unanimous consent that I be given 1 more minute.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAUCUS. I object unless—it is off his time. Fine. I do not object.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Senator EVAN BAYH said:

And so raising taxes right now would be the wrong thing to do because it would dampen consumer demand and lessen business investment.

"We're not creating jobs, and raising taxes now would not be a great idea," Rep. Michael McMahon, a New York Democrat, said this week."

This is a quote from the Wall Street Journal on July 21:

Martin Vaughan and John McKinnon: "Bush Tax Cuts Split Democrats."

"Rep. Bobby Bright, a Democrat facing a tough reelection race in Alabama, said tax increases, even if limited to the wealthiest families, could imperil the recovery."

This is a quote from The Hill newspaper on July 22:

Alexander Bolton: "Democrats may stop Bush-era tax cuts for wealthy from expiring."

"I think the recovery is sufficiently fragile that we ought to leave tax rates where they are," said Rep. Gerry Connolly, a freshman Democrat from Virginia. Connolly said Democrats should not allow the 2001 Bush tax cuts to expire for anybody."

Again, a quote from The Hill newspaper on July 22:

Alexander Bolton: "Democrats may stop Bush-era tax cuts for wealthy from expiring."

The leader of the Federal Reserve, Dr. Ben Bernanke, said: "In the short term I would believe that we ought to maintain a reasonable degree of fiscal support, stimulus for the economy . . . There are many ways to do that. This is one way."

I do not blame the distinguished chairman of the committee because we have not marked up these bills. I blame the leadership here for not realizing that is why we have a Finance Committee, to mark up these bills and let both sides have a chance to make them better if they can.

We all have an interest in spurring small businesses and getting the economy going. Bringing these important bills right to the floor and bypassing the Finance Committee, and then doing what has been done on every bill since the health care bill and even before—locking up the parliamentary tree so we cannot have a reasonable shot at even putting up some amendments—is not the way to do business. It is not what creates the bipartisanship we need right now in our Senate.

I wanted to make that point and hope we can change our ways so the Senate will be what it ought to be—the greatest deliberative body in the world.

I thank my colleague from Montana for granting me additional time. I appreciate him as leader of the Finance Committee. I enjoy working with him, and I enjoy working with my colleagues on the other side. But my gosh, let's stop this business of locking up the tree on everything and not debating the way we should, not giving people half a reasonable shot of bringing up their amendments, and, above all, let's start marking up these very im-

portant bills in the Finance Committee.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, I know other Senators have risen before me, so I will be very brief. I will take a minute. The Senator from Washington is next. I thank her for her indulgence in letting me take 1 minute.

This is very clear: The American people want us in Congress to do their work. They want us to do something that is reasonable and makes sense. Most Americans are not way off on the left side, and they are not way off on the right side. They are basically in the middle and do a good job.

Most Americans would want us to help small businesses in a good way, in a solid way—maybe not in the exact way each American would want but in a good, solid way. This bill clearly does that. It does what the American people want.

Small businesses generate jobs. They are the small engine of growth. We need to help small businesses. This bill does that. It cuts taxes for small businesses. It gives lending authority for small businesses. There are many other provisions I do not have time to explain that help small businesses.

This is not some small Band-Aid bill. This is a bill that makes sense for small businesses. It provides certainty to small businesses. It helps them. We cannot solve all the world's problems in one bill, but we can certainly help small businesses in this bill.

I can say—and I am pleading, frankly, with a few Republican Senators who have not quite decided how they are going to vote on this cloture vote—this is a good bill, a solid bill, a start in the right direction. Let's pass it. Let's not get hung up on who said what to whom, caught up on debating points, and come across like kids in a sandbox. Let's pass this bill. It is a good bill. It is good for America.

We can deal with other issues, such as the expiring tax cuts, another time in the future. But right now this is small business. It is solid. It is getting done. It is going to help people. That is what people want us to do. They want us to do the right job. I urge us to pass this bill.

I yield 5 minutes to my good friend from Washington.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mrs. MURRAY. Madam President, on Tuesday, I came to the floor to voice my support for this bill by telling the stories of small business owners in every corner of my State who have struggled so hard to get credit since this recession began.

I talked about people who were driven by their passions, who want to grow their businesses, who want to hire, but who have been stymied by the lack of credit flowing from our banks.

I talked about the drivers of our economy and job creation. But if small

businesses are the driver of our economic recovery, then our community banks are the engine. Right now we all know that engine is in neutral. That is because for far too long, our community banks have been ignored in our economic recovery.

Since this recession began, we have seen banks fail one after another, lending dry up to our small businesses, and job growth suffer. While Wall Street institutions, such as AIG and Goldman Sachs, were deemed "too big to fail," the collapse of our community banks has apparently been "too small to notice."

Last year, I introduced the Main Street Lending Restoration Act which would have directed \$30 billion to help jump-start small business lending. That is why I have spoken with Secretary Geithner and President Obama about this directly and why I have been pushing so hard to make small business lending a priority.

I have felt very strongly that we have to focus more on our community banks if we want to make progress and bring true recovery to our Main Street businesses. It is why I am so proud to stand here today and support this bill. I thank Senator LANDRIEU and others for working with us in creating the Small Business Lending Fund and the State Small Business Credit Initiative.

This Small Business Lending Fund takes the most powerful idea from my Main Street Lending Restoration Act and sets aside \$30 billion to help our local community banks—those that are under \$10 billion in assets—to help them get the capital they need to begin lending to our small businesses again. It is going to reward the banks that are helping our small businesses grow by reducing the interest rates on capital that they get under this program, and it will help our small support business initiatives run by our States across the country that are struggling because of local budget cutbacks. And, as Senator LANDRIEU has told us, it will save taxpayers an estimated \$1 billion.

It is a bill that should have broad support and, in fact, it does from small business groups of all stripes, community bankers, and so many others across this country who have found common cause with this bill.

Once again we are finding ourselves faced with opposition from the other side. Once again a commonsense bill that will save taxpayers money is being held hostage by political calculation. I think an editorial in yesterday's Seattle Times on this bill summed up some of the frustration in living rooms and communities across the country very well on the obstruction we see every day.

The editorial first noted the importance of this bill we are considering by saying:

Economic recovery is all about jobs. And American consumers, who help power the economy, are spending less in the shadow of a shaky employment market. Small banks lending to small businesses puts people to

work. Access to credit is key. Helping Main Street rekindles hiring, boosts consumer confidence in overall economic conditions, and fuels the recovery.

That is how the editorial started. It went on to say this is “part of a larger package of legislation for small business and Main Street America that has attracted scant Republican interest or support.”

Then the editorial briefly, but very accurately, summarized what I think so many in our country are thinking when they return home from pounding the pavement, looking for work only to turn on their TV to see that a bill such as this is blocked from consideration. It said:

Nothing should be more nonpartisan than putting people back to work.

It is a line that speaks volumes in this Chamber because it is a line that truly represents how so many of our constituents feel. This is a nonpartisan bill. This is a bill that puts credit back into the hands of our small business owners. It puts people back to work. And nothing should be more nonpartisan than putting people back to work.

I urge all of our colleagues to listen to the voices of their constituents and small business owners. Support this cloture motion. Let's get this sent to the President.

Quickly, I do want to say that I worked very hard to include funding in this bill to help save over 130,000 teacher jobs. Again that effort has been blocked by Republican obstruction.

I remind all of us, every day we see more reports about the continuing wave of layoffs affecting our school districts. This is not just about school districts. It is about losing teachers, and it may be the only teacher who touches a child in their classroom. It is about kids in every one of our States. We need to be sure we do not lose focus of this issue.

I am going to continue to fight to ensure that our teachers return to the classrooms and our kids have the best instructors in September.

Again I thank Senator LANDRIEU for her tremendous work on this bill.

Ms. LANDRIEU. Madam President, how much time is remaining on our side?

The ACTING PRESIDENT pro tempore. There is 8 minutes 36 seconds remaining.

Ms. LANDRIEU. The Senator from Maryland has been on the floor for almost an hour. May he have the next 3 minutes? I see the Senator from Maine who could then speak after him.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Madam President, I thank Senator LANDRIEU for her incredible leadership and work in regard to the Small Business Jobs and Credit Act of 2010. This is the work of the Small Business and Entrepreneurship Committee and the Finance Committee.

As Senator LANDRIEU pointed out, it has been the work of Democrats and

Republicans working together on many important provisions to help the small business community. It truly is a bipartisan bill. It is a critically important bill. I, quite frankly, do not understand why there are those who want to oppose us getting this done.

It contains many provisions that have been brought to us by the small business community that we need to get done. We all profess and understand that the growth engine of America is in small business. That is where new jobs are created. Sixty-four percent of the net nonfarm new jobs are created by small businesses.

Innovation is the way for America to stay on the cutting edge. More patents and more copyrights are created through small businesses per employee than a larger company.

This bill is about creating jobs for Americans who desperately need them. This legislation combines many bills reported out of the Small Business Committee. I say congratulations to Senator LANDRIEU and Senator SNOWE. These are bills that both of them worked on together that are important for us to get done.

Let me just summarize some of the important bills that came out of our committee that are included.

We helped small businesses with international trade, leveraging \$1 billion of export capital. This alone will affect 40,000 to 50,000 jobs. We deal with government contracting. We have had hearings—I had a hearing in the State of Maryland on behalf of the Small Business Committee—where small business companies pointed out how difficult it is for them to access the government procurement system. So our committee went to work.

Thank you, Senator LANDRIEU; thank you, Senator SNOWE. We went to work and reported out a bill that is incorporated that deals with the abuses of bundling. Bundling is when the agency puts together a lot of small contracts into a large contract where a small company can't compete for it. We have taken action to correct that in this bill so that small companies can access government procurement in an easier way.

We started to attack what is known as prime contract abuse, where prime contractors don't pay their small contractors on time or abuse their small contractors, which are more likely to be small businesses. That is dealt with in this legislation.

We deal with gender equity by investing in the Women's Business Center. As Senator LANDRIEU has pointed out, working with the Finance Committee, we deal with tax equity. Business owners can deduct the cost of health care for their families in calculating the self-employment tax. This is a matter of fairness for small business owners to be treated equally with larger companies; to be able to increase the amount of startup costs that can be deducted from \$5,000 to \$10,000.

These are all important issues. If you are a small business owner struggling

to make payroll or to keep your doors open, this help could be the difference between hiring another employee or not.

Lastly, Madam President, it deals with credit. It extends credit to small businesses. We all talk about that.

The ACTING PRESIDENT pro tempore. The Senator has consumed 3 minutes.

Mr. CARDIN. I ask unanimous consent for 1 additional minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CARDIN. The credit provisions are critically important. We make permanent the SBA guarantee programs—90 percent guarantees, the cost reductions, the 7(a) limits from \$2 million to \$5 million, the 504 limits from \$1.5 million to \$5.5 million, the microloans. We boost lending, by that alone, in the first year by \$5 billion. Then, as our chairman has talked about, the State programs are funded as well as the community bank programs.

I want to mention one additional point, if I might. I am disappointed the surety bond extension is not in this bill. I will work with the chairman of the Small Business Committee and the Finance Committee to make sure we find a way to include that in the American Recovery Act. We increase that from \$2 million to \$5 million. It deals with small construction companies.

It is very important because for State and Federal contract projects over \$100,000, you need to have a surety bond. If you are a small business owner, what you need to pledge in order to get that surety bond can deny you credit in the market. We have to extend that to the \$5 million that was included in the Recovery Act, and I feel confident, after talking to the chairman, that we will find a way to get that done.

The bottom line is this is a critically important, well-balanced bill that will help small businesses. This is our opportunity to vote for it. In half an hour, we will have a chance to decide whose side we are on. Are we on the side of small business owners, to help this economy recover, or are we just going to continue this partisan division in the Senate? I hope my colleagues will vote on the side of small businesses.

With that, Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. SNOWE. Madam President, all I can think of, in listening to the Senator from Maryland, is if we could have limited this legislation before the Senate to the provisions we agreed to on a bipartisan basis—in fact, many of which passed unanimously in the Senate Small Business Committee—clearly, we would be in a far better position than we are today. That is the regrettable dimension to the situation we are facing procedurally in the Senate.

I know from the majority side there is not an inclination to accommodate

the rights of the minority, but that is the tradition in the Senate. The majority rules, but you accommodate the rights of the minority. That is the essence of what the institution of the Senate is all about.

I regret we are where we are today in the Senate on this issue that I have been championing since January of this year. It seems to me we are all worried about the legislative train running out of the station. If we are all concerned about the limited time we have available to address the issues of small business and job creation, which are the foremost issues in the United States of America, I would have suggested—and I did and I asked and I pleaded—that we should have addressed this issue in January, at the outset of the legislative session, not, at the end of July, when we are about to recess for August.

So everybody is worried about the recess. We only have 1 week left. Well, that is right. What do we know today that we didn't know earlier? Jobs and the economy are the foremost issues facing the country, facing Americans. If it took several months to address those issues, then we should have taken several months to address those issues. But now we are faced with a procedural impasse because we are being denied the opportunity to offer some amendments to this legislation.

Now, you would think we ran out of time. We didn't run out of time. We didn't run out of time. We had 81 days this year—81 days—in which we did not have rollcall votes; 81 days excluding weekends and Federal holidays, all through yesterday, when we didn't have any recorded votes. We could have addressed this issue long before now, given it the attention it deserved, rather than treating it as a mere afterthought in the legislative process that we have to ram through here and deny the minority the opportunity to offer a few amendments. That is all we are asking.

Now, you think we just dropped this bill on the floor of the Senate yesterday? This bill was on the floor more than 3 weeks ago. How many amendments have we been able to offer on this bill on our side? Zero. I will give them the lending facility that was offered by Senator LEMIEUX. But, obviously, that was an amendment the majority wanted. I recognize the Chair here, and that was one of her major issues, an area in which I disagreed in creating a \$30 billion lending facility. But we have not been able to offer any amendments.

We have had this bill on the Senate floor for 3 weeks. We have had three substitutes—three substitutes. No amendments. No amendments. Then yesterday, no votes on anything. We could have been finished with this bill by now, if you had given the minority the right to offer a few amendments. We are shutting down this process, Madam President, denying the opportunity to debate the foremost issue fac-

ing America—creating jobs. We have a 9.5-percent unemployment rate. We need to create jobs in America.

As illustrated last month, only 83,000 jobs were created in the private sector, and we are saying we don't have time to address this issue? It is not only frustration, Madam President, it does a disservice to the American people. They know better. We have had plenty of time to address this issue. This bill has been on the floor of the Senate for 3 weeks and we have had three substitutes and 81 days that we have had no rollcall votes. We had no rollcall votes yesterday. Then, suddenly, what appeared last night was that we have a substitute and we have side-by-sides, or alternatives, to Republican amendments. No opportunity to review them, no opportunity to have a discussion or to reach a true unanimous consent.

The majority has said we have a unanimous consent agreement, but actually it is an ultimatum to the minority—take it or leave it. So we had no opportunity to review these alternatives because they were just filed. Actually, the amendments were not even filed. The majority leader posed them in his unanimous consent agreement that we either had to accept or reject. There was no opportunity to have a discussion yesterday. How could we reach an agreement, maybe on several amendments that would be important to this legislation, Madam President?

So we had four amendments that were filed on the majority side, and now we are faced with a cloture vote today at 10:40. Why are we rushing to a cloture vote? Why don't we spend more time talking to each other to get the policy right? Is it something that we are not familiar with anymore—how to sit down and talk to one another, to discuss the issues?

What are the alternatives the majority provided in the unanimous consent agreement that wasn't a consent agreement because nobody talked to anybody about it? Well, it is adding issues that were in the supplemental. It is basically taking the supplemental, the tax extenders bill, fiscal assistance to the States, education funding, and agricultural appropriations disaster funding that is actually in the new substitute that was filed. Those are the alternatives that have been offered to this bill.

So this has become a mega bill. It is a mega supplemental, it is a mega tax extender bill, it is now an agricultural disaster bill on the small business bill. So if we were to take the issues that we agreed to on a unanimous and bipartisan basis in the Senate Small Business Committee, we could have had 75 to 80 votes. But that wasn't sufficient for the majority. It wasn't sufficient.

So here we are today with a cloture motion—take it or leave it—because we only have 1 week left. Well, why do we have 1 week left? Why don't we take as long as it requires to do what is right,

to try to get the best policy to create jobs in America instead of facing this figurative legislative brick wall that is artificially contrived? It is all political theater. It is not about legislating anymore. It is all political theater. It is scoring political points. It is all for the next election, which is coming very shortly. It is not about getting the right policy for America—for small businesses that are suffering, for the 8 million who have lost their jobs, the nearly 15 million who are a part of that, with the underemployed who are desperate and who need certainty.

The House is adjourning tomorrow. So where is this legislation going? This was supposed to be a jobs agenda legislative session. That is what we were told by the majority. That is what we were told by the President of the United States. I said back in January—I sent letters to the President, to the Small Business Administrator, to the majority—saying let's do it now. I had a major initiative that I filed in early March, and I was asked by the majority leader to defer because he said we were going to be addressing this on the floor of the Senate before the April recess.

Well, according to my calendar, we are at the end of July, and here we are. We are not even going to get done before the August recess because the House is adjourning tomorrow. So we have to get this done. So we are going to ram it and jam it and take it or leave it, but we are not going to be able to offer any amendments on this side. We are not going to be allowed to offer any amendments because the majority is going to dictate the will of the minority on a few amendments.

Madam President, this is unacceptable. I regret this. I deeply regret this, as one who has worked across the political aisle. I wish more would do it on both sides—look at the policy and see what is right and what works. Now we are talking about these side-by-sides offered by the majority last night—the night before a cloture vote. We filed a cloture vote on the third substitute that has disallowed any amendments to be offered by the majority; the third substitute in the third or fourth week this bill has been pending. The third substitute was filed on Tuesday and we are having a cloture vote at 10:40 this morning, Madam President, with no amendments because the majority is going to tell us what amendments we can offer. But they are going to offer plenty of amendments that aren't even related to the small business bill.

Enough is enough. This has been anything but a jobs agenda. The American people are suffering. I suspect we will all go home and talk to our constituents. What do you think is happening on Main Street? Yet here we are, all for jobs. Oh, but by the way, we are going to offer the supplemental that we dropped last week.

Last week, before we voted on the lending facility amendment, I deferred my remarks on the lending facility out

of deference to one of our colleagues on the other side. I never made my final arguments because we went to the supplemental. They stripped everything and sent it to the House. Now they are taking all the rest of it and putting it in this package on top of tax extenders, the fiscal assistance and education funding? They are talking billions and billions. \$40 billion here, \$20 million there, all that added to the small business bill.

For what purpose? Is that the way we legislate? Well, the American people know. They know it. They can see through this masquerade. They see it all the time. They know it. That is why they have lost confidence. That is why we are at a historic low, Madam President, in terms of public approval. It is a disgrace for this institution. It is a disgrace and a shame, and I am speaking as one who has worked mightily across the political aisle for more than 30 years, in both the House and the Senate. My career and my legislative record is replete with examples of bipartisanship. I think this is nothing but a disgrace and a shame and I regret that—more than anything else, for the people who are suffering in America in every one of our communities. We all know better.

We had no votes yesterday. It was possible to sit down and talk and see what unanimous consent request could be agreed to between the minority leader and the majority leader. But, no, we decided we are going to forgo all that. We are going to play a political game. Isn't this nice, offer these side-by-sides so the American people should know there are so-called alternatives to whatever the majority would allow us to offer. It is a sad commentary because two-thirds of the American people disagree with the direction we are going.

But more than anything else, they need jobs to support their families. I

supported the unemployment benefit extension, much to the consternation of the minority leader and others on this side, because they wanted to pay for it and I would have preferred to also, but I knew that would not be acceptable on that side. But I was willing to do it because I didn't want to put people in the terrible position of making a choice in their lives about how they are going to put food on their table. I have talked to people in Maine. I talk to my constituents and I listen, so that is why I supported it, because I thought it was important to do it for the American people, and I hope there could be some reciprocity here, to do what is right for America.

I yield the floor.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired. The Senator from California.

Mrs. BOXER. Madam President, what the American people want from us is for us to work together. They don't want partisan political attacks. Here is what is so strange about this particular partisan attack we have just heard. The Senator from Maine said she wants a chance for her side to have "just a few amendments."

I ask unanimous consent to have printed in the RECORD the offer made by the majority leader to allow that. Any of the amendments they wanted, the other side wanted, matched by amendments we wanted. I ask unanimous consent to have that printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Leader: Mr. President, I ask unanimous consent that the pending motion to commit be withdrawn, and all pending amendments be withdrawn except #4519, and that the following amendments be the only amendments in order to amendment #4519, with no motions to commit or motions to suspend the rules in order during the pendency of H.R.

5297; that all amendments included in this agreement be subject to an affirmative 60 vote threshold; and that if the amendment achieves that threshold, then it be agreed to and the motion to reconsider be laid upon the table; that if it does not achieve that threshold, then it be withdrawn; that any majority side-by-side amendment be voted first in any sequence of votes; further that debate on any amendment included in this agreement be limited to 60 minutes each; with all time equally divided and controlled in the usual form:

Baucus amendment re: information reporting provisions health care as a side-by-side to the JOHANNIS 1099 reporting amendment; JOHANNIS amendment 1099 reporting; MURRAY/HARKIN amendment re: education funding; Republican side-by-side amendment re: education funding; HATCH amendment re: R&D; REID amendment re: FMAP/Cobell funding; GRASSLEY amendment re: biodiesel.

That upon disposition of the listed amendments, no further amendments be in order; that the substitute amendment, as amended, if amended, be agreed to; the bill, as amended, be read a third time, and without further intervening action or debate, the Senate proceed to vote on passage of the bill; finally, that once this agreement is entered, the cloture motions on the substitute and bill be withdrawn.

Mrs. BOXER. Madam President, I also work across the political aisle. I worked with Senator SNOWE on the Passenger Bill of Rights. I worked with the former Senator Smith on guns in the cockpit. I worked with Senator ENSIGN on afterschool, I worked with Senator INHOFE on highway bills, on WRDA bills. We all work across the aisle and I too compliment the Senator from Maine for standing with us on some very tough votes. But I have to say—she is asking for a bipartisan bill?

Let me read the sections of this bill and I ask unanimous consent to have this printed in the RECORD.S

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 5297 – Small Business Jobs Act of 2010: SBC Provisions

Proposal	Description	Underlying Provisions
Small Business Access to Credit	<ul style="list-style-type: none"> Increases limits on SBA 7(a) loans from \$2 - \$5 million, 504 loans from \$1.5 - \$5.5 million, and microloans from \$35,000 - \$50,000; allows 504 loans to be used to refinance short-term commercial real estate debt into long-term, fixed rate loans; extends SBA-ARRA provisions to provide a 90 percent guarantee on 7(a) loans and fee waivers for borrowers on 7(a) and 504 loans until 12/31/10. SBA estimates the loan limit adjustments will increase lending to small businesses by \$5 billion within the 1st year of enactment. 	<p>Bipartisan: Landrieu-Snowe (S. 2869) Snowe (S. 3103) S. 2869 Passed SBC 17-1</p>
Small Business Trade & Export Promotion	<ul style="list-style-type: none"> Improves the SBA's trade and export finance programs, elevates the Office of International Trade, expands the export finance specialist counseling program, establishes a State Export Promotion Grant Program (STEP), and strengthens coordination between federal/state export agencies and SBA resource partners. Leverages more than \$1 billion in export capital for small businesses, creating/saving as many as 40,000 - 50,000 jobs in the U.S. in 2010. 	<p>Bipartisan: Snowe-Landrieu (S. 2862) Snowe (S. 3103) S. 2862 Passed SBC 18-0</p>
Small Business Contracting	<ul style="list-style-type: none"> Establishes stricter federal contract bundling requirements, ensures prompt payment of subcontractors, requires an aggressive review of SBA size standards every five years, and allows small businesses to team to compete for large federal contracts. Also places all federal restricted competition contracting programs on equal footing and clarifies that no program has priority over any other, and establishes a Mentor Protégé Program for the HUBZone program. Increasing contracts to small businesses by 1 percent could create more than 100,000 jobs. 	<p>Bipartisan: Snowe-Merkley (S. 1489) Landrieu-Snowe (S. 2989) Landrieu-Crapo-Risch (S. 3190) S. 2989 Passed SBC 18-0</p>
Small Business Management & Counseling	<ul style="list-style-type: none"> Allows SBA to waive or reduce the non-federal share of a WBC's or Microloan Intermediary's funding requirement for a period of up to 1 year, through FY12. SBA estimates that the microloan program will create or save more than 10,000 jobs in FY11. 	<p>Bipartisan: Snowe (S. 3103) Landrieu-Snowe (S. 3165)</p>
Small Business Disaster Loan Improvements	<ul style="list-style-type: none"> Allows small aquaculture businesses to receive SBA Economic Injury Disaster Loans (EIDL) if no other Federal disaster assistance is available. 	<p>Democrat: Landrieu-Nelson (S. 2731)</p>
Small Business Regulatory Relief	<ul style="list-style-type: none"> Requires Federal agencies to officially respond to regulatory comments filed by the Chief Counsel of the SBA's Office of Advocacy and also establishes the Office of Advocacy as a line item in the SBA's annual budget. 	<p>Bipartisan: Snowe-Pryor (S. 3024) Snowe (S. 3103)</p>

H.R. 5297 – Small Business Jobs Act of 2010: Tax Provisions

Proposal	Description	Underlying Provisions
100% Exclusion of Capital Gains Tax	<ul style="list-style-type: none"> Allows investors in small businesses to take a 100% exclusion from capital gains taxes on small business investments made in 2010. Cost: \$517 million. 	Bipartisan: Kerry-Snowe-Menendez (S. 78) Snowe (S. 3103)
Increase Deduction for Start-Up Expenditures	<ul style="list-style-type: none"> Temporarily increases the maximum deduction for business start-up expenditures in 2010 and 2011 from \$5,000 to \$10,000, subject to a \$60K threshold. Cost: \$230 million. 	Bipartisan: Merkley-Alexander (S. 1402)
Extension of Sec. 179 Enhanced Small Business Expensing	<ul style="list-style-type: none"> Extends the Sec. 179 expensing provision that allows small businesses to immediately expense up to \$500,000 (up from \$250K) for tangible personal property and up to \$250K for improvements to leasehold property and retail property. Cost: \$2.2 billion. 	Republican: Snowe (S. 3103)
Tax Equity for the Self-Employed	<ul style="list-style-type: none"> Allows self-employed taxpayers to deduct health care costs for payroll tax purposes on their 2010 tax returns. Cost: \$1.96 billion. 	Bipartisan: Bingaman-Hatch-Landrieu (S. 725) Grassley (H.R. 5297)
Extension of ARRA Bonus Depreciation	<ul style="list-style-type: none"> Extends ARRA provisions that allow businesses to immediately write-off 50% of the cost of capital expenditures for 1 additional year for qualifying property purchased and placed into service in 2010. Extends ARRA bonus depreciation provisions that include a modification allowing long-term contractors that use the percentage-of-completion method of accounting (PCM) to elect bonus depreciation on property whose depreciation term is less than seven years. Cost: \$5.5 billion. 	Bipartisan: Baucus-Grassley-Brownback-Inhofe-Johanns-Menendez (S. 3515)
Small Business Penalty Relief	<ul style="list-style-type: none"> Would make the penalty for failing to disclose "listed transactions" proportionate to the tax savings for the transaction. Cost: \$176 million. 	Bipartisan: Baucus-Grassley-Crapo (S. 2771)
Removes Cell Phones from Listed Property	<ul style="list-style-type: none"> Delists cell phones and other telecommunications devices from the category of "listed property" for tax purposes. Cost: \$411 million. 	Bipartisan: Kerry-Ensign (S. 144) 72 bipartisan cosponsors
S-Corp Holding Period	<ul style="list-style-type: none"> Temporarily reduces the asset holding period for converted S-Corporations from 10 years to 5 years. Cost: \$70 million. 	Republican: Snowe (H.R. 5297)
General Business Credits Not Subject to AMT Limits	<ul style="list-style-type: none"> Allows small businesses to use all types of general business tax credits to offset AMT liability. Cost: \$1 billion. 	Republican: Grassley (H.R. 5297)
Carryback Up to 5 Years 2010 General Business Credits	<ul style="list-style-type: none"> Allows sole proprietorships, partnerships and non-publicly traded corporations with less than \$50M in average gross annual receipts for the prior 3 years, to carryback unused credits for 5 years. Cost: \$107 million. 	Republican: Grassley (H.R. 5297)

H.R. 5297 – Small Business Jobs Act of 2010: LeMieux-Landrieu Amendment

Proposal	Description	Underlying Provisions
Small Business Lending Fund	<ul style="list-style-type: none"> Establishes a voluntary capital purchase program under which Treasury purchases equity in small banks under \$10 billion. Banks repay at a dividend rate that decreases as their small business lending increases; the decreased dividend rate can be as low as 1%. Not at all related to TARP, and there are no TARP-like restrictions. Program level is \$30 billion which by conservative estimates, will lead to \$300 billion in small business lending. 	<p>Bipartisan: LeMieux-Landrieu (H.R. 5297)</p>
Utilizing Predictive Modeling to Fight Health Care Fraud	<ul style="list-style-type: none"> Utilizes similar technology that the credit card industry uses to prevent fraud from taking place. Credit card companies often call customers after a purchase that appears out of the ordinary. This is done to prevent payment of a fraudulent transaction from taking place. The same process would be implemented in fighting Medicare and Medicaid fraud. 	<p>Bipartisan: LeMieux (S. 2128) 15 <i>Bipartisan cosponsors</i> LeMieux-Landrieu (H.R. 5297)</p>
Export Promotion	<ul style="list-style-type: none"> Small Business Export promotion bill that enhances export assistance programs operated by the Department of Commerce. Adds 80 U.S. and Foreign Commercial Service Officers. Temporarily increases funding for the Rural Export Initiative (REI), ExportTech program, Market Development Cooperator Program (MDCP). Requires that small businesses be receive priority consideration for awards made through the Manufacturing Extension Partnership (MEP) & Technology Innovation Program (TIP). Encourages collaboration between the Department of Commerce and state export assistance agencies. Requires a report on tariff and non-tariff barriers for small businesses seeking export opportunities in Colombia, Panama and Korea. 	<p>Bipartisan: Klobuchar-LeMieux (S. 3084) LeMieux-Landrieu (H.R. 5297)</p>

H.R. 5297 – Small Business Jobs Act of 2010: Other Provisions

Proposal	Description	Underlying Provisions
Agriculture Disaster Relief	<ul style="list-style-type: none"> Provides assistance for any agricultural losses on crops that occurred in 2009, including specialty crops, livestock, sugar, aquaculture, cottonseed, and poultry. Would distribute \$1 billion in supplemental direct payments to producers with minimum 5-percent losses in production, including: \$42M in cottonseed assistance; \$25M in aquaculture assistance; \$21M to a Hawaiian sugar cane cooperative; \$75M to poultry producers; \$50M for livestock producers; and \$300M for specialty crop producers. Any state that has a county that was declared a primary disaster county in 2009 is eligible. 	<p>Bipartisan: Lincoln-Chambliss</p>
State Small Business Credit Initiative	<ul style="list-style-type: none"> Provides \$1.5 billion in grants to States to support small business lending programs. States apply for the funds to be used for approved programs that leverage private lenders to extend up to \$15 billion in credit to small businesses and manufacturers. Allows States to build upon successful models for state small business programs, including capital access, loan participation, collateral support, State-run venture capital, and credit guarantee programs: <ul style="list-style-type: none"> Capital Access Programs (CAPs): CAPs, which are already up and running in over 20 states, are loan portfolio insurance programs, where states provide a matching contribution to bank loan loss reserves when lenders extend credit to qualified small businesses. These reserve enhancements allow lenders to take slightly more risk in expanding credit to new borrowers. Collateral Support Programs: Help businesses struggling to get credit because the value of the collateral they hold has fallen. These programs, which set aside funds to augment collateral the borrower already holds – provide banks greater confidence in extending credit to these borrowers. Funds are allocated to the States using formulas based on certain State employment and unemployment rate data. States have nine months to apply for the program and if a state does not apply, the largest municipalities of a state can apply. 	<p>Bipartisan: Developed with the support of 28 Republican and Democratic Governors Warner-Levin</p>

Mrs. BOXER. The first amendment written by Landrieu-Snowe; the second, Snowe-Landrieu; the third one, Snowe-Merkley; the fourth one, Snowe-Landrieu; the next one, Landrieu-Nelson; the next one, Snowe-Pryor—and on and on.

The next section: Merkley-Alexander. We all know Senator HATCH worked with Senator BINGAMAN on many of these. Senator GRASSLEY is involved in this, Senator BROWBACK is involved.

I have to say, of all the bills we have taken up, this is the most bipartisan. I think that to make a process argument now is a shame.

Let me read some of the groups that support this bill, even though the Senator from Maine doesn't like it. Let me tell you where you are. The U.S. Chamber of Commerce: Pass this bill; National Federation of Independent Businesses: Pass this bill; the U.S. Hispanic Chamber of Commerce: Pass this bill; the Black Chamber of Commerce: Pass this bill; the National Association for the Self-Employed; the Small Business Majority—and on and on.

I ask unanimous consent to have the entire list printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORTERS OF THE SMALL BUSINESS LENDING FUND (SBLF)

American Apparel and Footwear Association; American Bankers Association; American International Automobile Dealers Association; Arkansas Community Bankers; Associated Builders & Contractors; California Independent Bankers; Community Bankers Association of Alabama; Community Bankers Association of Georgia; Community Bankers Association of Illinois; Community Bankers Association of Kansas; Community Bankers Association of Ohio; Community Bankers of Iowa; Community Bankers of Washington; Community Bankers of West Virginia; Community Bankers of Wisconsin; Conference of State Bank Supervisors; Fashion Accessories Shippers Association; Financial Services Roundtable; Florida Bankers Association; Governors of Michigan, Ohio, Colorado, Connecticut, Illinois, Massachusetts, Pennsylvania, New Mexico, New York, North Carolina, Oregon, Washington, West Virginia.

Heating, Air Conditioning & Refrigeration Distributors International; Independent Bankers Association of Texas; Independent Bankers of Colorado; Independent Community Bankers Association of New Mexico; Independent Community Bankers of America; Independent Community Bankers of Minnesota; Independent Community Bankers of South Dakota; Indiana Bankers Association; International Franchise Association; Louisiana Bankers Association; Maine Association of Community Banks; Marine Retailers Association of America; Maryland Bankers Association; Massachusetts Bankers Association; Michigan Association of Community Bankers; Missouri Independent Bankers Association; National Association for the Self-Employed; National Association of Government Guaranteed Lenders; National Association of Manufacturers; National Automobile Dealers Association.

National Bankers Association; National Council of Textile Organizations; National Marine Manufacturers Association; National Restaurant Association; National RV Retail-

ers Association; National Small Business Association; Nebraska Independent Community Bankers; Pennsylvania Association of Community Bankers; Printing Industries of America; Small Business California; Small Business Majority; Tennessee Bankers Association; Travel Goods Association; Virginia Association of Community Banks; Women Impacting Public Policy.

Mrs. BOXER. Madam President, the Senator from Maine is right when she says we have to move to help this economy, and this bill is one of the answers. That is why it has such broad support. Republicans and Democrats across the country support this, independent voters support this, small businesses support this. The only group that is filibustering this bill happens to be the Republicans in the Senate. I am telling you, if they say no again, they are hurting this economy.

I yield the floor.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Ms. LANDRIEU. I understand the leadership has 5 minutes each, equally divided.

The ACTING PRESIDENT pro tempore. The time remaining currently belongs to the Republican leader. There is 5 minutes, followed by the majority leader.

Ms. LANDRIEU. That is fine. Thank you. I would like the minority leader to go ahead. It is his 5 minutes, and I will reserve the last 5.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, I had the opportunity to hear the distinguished Senator from Maine, a few moments ago, speak on the measure before us and how it has seemed to become completely enmeshed in the political agenda of the other side. I commend her for her efforts to get this bill right. Senator LEMIEUX was on the floor earlier, another one of our colleagues on the Republican side who worked long and hard to get this bill across the finish line.

But I must say, it takes a lot of effort to make a partisan issue out of a bill that should have broad bipartisan support. You have to go out of your way, as Senator SNOWE pointed out, to make a small business bill controversial, but our friends on the other side have managed to pull it off.

They have outdone themselves. We got this bill in late June. This is July 29. Since then, the Democrats have set it aside six separate times to move on to something else. So, from the beginning, this bill clearly was not a priority to them until they realized they didn't have anything to talk about when they go home in August. I think one Democratic Senator put it best when he suggested this week that a midterm campaign that revolves around his party's agenda and that of the White House is a losing proposition for the majority.

He was summing up their strategy on this bill. They knew they could not run on a record of job-killing taxes, bur-

densome new regulations, massive government intrusions and record deficits and debt. So what do they do? What do they do? They create an issue where there is none. That is what this debate is all about.

It was clear from the beginning there was a path for this bill to pass with a very broad bipartisan majority. Instead, we are standing here this morning looking at a third version of a bill and we have yet to engage in any substantive amendment process. They have been adding either controversial or completely unrelated matters to the bill—all to avoid any real debate and to avoid voting on Republican amendments.

This bill now has over \$1 billion in agricultural spending in it. It has \$1 billion in agricultural spending in a small business bill, in the core bill—the most recent version of the core bill. As I said, we have been on this since June 29.

Republicans have asked for a total of eight amendments. That is about two votes a week if we had been on this bill. That is not too much to ask.

It is obvious what is going on. They wanted to make this an issue so they have something to talk about other than their failed economic policies. The President made that clear 2 weeks ago when he accused Republicans of blocking this bill, a statement every single fact checker in town has shown to be false. So they can try to deflect attention all they want, they can manufacture a legislative impasse—and that is what has happened here, a manufactured legislative impasse—but the American people know what is going on. Nearly every major piece of legislation this Congress has considered has had painful consequences for small business. Nearly every major piece of legislation this Congress has considered has had painful consequences for small business. Attempting to create a controversy is not going to hide that from anyone.

Hopefully, if cloture is not invoked, we can return to the original intent of this bill, strip it of its controversial add-ons and pass a small business bill that attracts broad bipartisan support and helps American small business owners. Given the legislative record of this Congress, they could certainly use the help.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. We have 5 minutes left; is that right?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I yield 4 minutes to my friend from Louisiana.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I would like to respond directly to the minority leader because I wish to make clear that there are no extraneous provisions in this bill other than disaster relief for farmers. The last time I checked, they were small business owners, many of them. They are running a

different kind of business. It is not a hardware store, it is not a restaurant—they go out and actually get their food out of the ground. The last time I checked or thought about it, they were small businesses.

If the minority leader is suggesting there is not bipartisan support for agricultural disaster relief, I urge him, at his next available opportunity, to file an amendment to repeal it because I think his side would have strong objection to that. That was put in at the request of Senator LINCOLN and Senator CHAMBLISS from Georgia, and he very well knows that—through the Chair to the minority leader.

There were only two arguments made this morning against this bill because it was just a political advertisement that the minority leader outlined, so I will not even respond to him, to the Senator from Kentucky, but I will respond, in closing, to Senator SNOWE and Senator HATCH.

Mr. HATCH came to the floor, the Senator from Utah, and said we couldn't possibly pass a \$12 billion tax cut for small business today unless we could, as a Senate, in the next few hours, make final decisions on whether to extend the entire tax package passed by George Bush when he was President 8 years ago. I think that is a big lift for the Small Business Committee. We want to give \$12 billion of tax cuts today. I hope people will vote for them.

Second and finally, Senator SNOWE does deserve the last reference on this because she is an outstanding Senator, one of the finest I have ever worked with, but this issue is a public debate between those of us who support the Small Business Lending Fund and those who do not. She does not support it. She has made excellent arguments. Her arguments are given merit. We voted on it, but we got 60 votes.

Senator REID, I know, has the last minute and he has been outstanding in this, but, please, there are only two legitimate arguments. We cannot solve extension of all the tax cuts in the next 2 hours. Our small businesses have picked up enough weight. They cannot handle that weight. If we don't give them some help now, today, many of them are not going to be here. I want the Senator from Kentucky to know, when we show up in September.

I yield the last minute to the leader.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. Without objection, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Madam President, let me bring all of the Senators up to date as to where we are.

A member of the minority indicated that that Senator would vote for clo-

ture if we took out a provision we put in, the agricultural disaster relief. So after having conferred with a number of Senators on both sides of the aisle, I have agreed we will take that out. With that provision not in the bill it got 60 votes on Thursday night, that same provision. But even to show good faith, which I am not sure it is necessary, but to show we are going to go the extra mile, I will not only agree to take out that extra provision but also have the same amendments we asked for yesterday; that is, the three amendments the Republicans wanted, which are the Johanns, Hatch, and Grassley amendments. I will be more specific on the legislative language in a minute. So we would take the agricultural disaster relief out and have the same amendments we had yesterday and offer the same amendment we had.

I don't know how we could be more fair. In fact, a number of my Members think we should go ahead with this, but we are willing to do that.

Madam President, I ask unanimous consent that Title 4, part 3, under substitute B, be stricken; and that the pending motion to commit be withdrawn, and all pending amendments be withdrawn except No. 4519, as amended, and that the following amendments be the only amendments in order to amendment No. 4519, with no motions to commit or motions to suspend the rules in order during the pendency of H.R. 5297; that all amendments included in this agreement be subject to an affirmative 60-vote threshold; and that if the amendment achieves that threshold, then it be agreed to and the motion to reconsider be laid upon the table; that if it does not achieve that threshold, then it be withdrawn; that any majority side-by-side amendment be voted first in any sequence of votes; further, that debate on any amendment included in this agreement be limited to 60 minutes each, with all time equally divided and controlled in the usual form:

Baucus amendment regarding information reporting provisions health care as a side-by-side to the Johanns 1099 reporting amendment; Johanns amendment 1099 reporting; Murray/Harkin amendment regarding education funding; Republican side-by-side amendment regarding education funding; Hatch amendment regarding R&D; Reid amendment regarding FMAP/Cobell funding; Grassley amendment regarding biodiesel; that upon disposition of the listed amendments, no further amendments be in order; that the substitute amendment, as amended, if amended, be agreed to; the bill, as amended, be read a third time, and without further intervening action or debate, the Senate proceed to vote on passage of the bill; finally, that once this agreement is entered, the cloture motions on the substitute and bill be withdrawn.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. McCONNELL. Madam President, reserving the right to object, let me

first compliment my friend the majority leader. I think we are beginning to make some real progress here toward making a bill that was initially bipartisan bipartisan again. This doesn't quite get back to where I had hoped we could get, but I think we are making progress.

Therefore, I would encourage my Members to oppose cloture on the vote, but we are going to continue the discussion. This is only 11:30 on Thursday. I think we are getting closer to getting where we may be able to do some business and get this bill out of here, but there will have to be some amendments on our side. Actually, I think our friends on the other side knew it would have to be more than three. I appreciate the movement in the direction with the three, but that would not be enough, at least for this juncture right now, to be satisfactory. Therefore, I object.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. My frustration is pretty high. I cannot possibly understand how my friends on the other side of the aisle could vote against cloture. We have agreed to take out the provision dealing with agricultural disaster—take it out. We have agreed to have the amendments they have indicated they have wanted for days. We have agreed to do that. It is unreasonable.

Some people said, Well, why don't you talk to Senator McCONNELL. I have talked to Senator McCONNELL. It is obvious that no one on the other side of the aisle wants this bill to pass. I am so disappointed.

We are going to have this cloture vote in a minute. I hope Senators on the other side of the aisle understand the good faith we have engaged in. This is not a victory for Democrats or a defeat for Republicans; it is an effort to help small business. It is an effort to help small business. I went over line by line what this does for small business. It is miraculous. Hundreds of thousands of jobs—not tens of thousands—will be created with this legislation.

I appreciate the chairman of the Small Business Committee leading this effort. I understand that I said Lincoln-LeMieux; of course I meant Landrieu-LeMieux when I spoke earlier. I am not going to mention Republicans by name, but there are some Republicans who have stepped forward, and I appreciate it very much. Again, it is not for my appreciation, it is for the appreciation of the American people. Look what this message will send. We have at least 80 groups, entities, which support this legislation. Major small business conglomerates support this legislation. This is all they have. We shouldn't leave here and not complete this legislation. It would be too bad. This should not be partisan.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. McCONNELL. Madam President, we turned to this bill initially on June 24. We have left it six times over the

last month. There is widespread agreement on a bipartisan basis that we should pass a small business bill. We are finally making some progress. It has become less a political instrument and more the initial bill, as Senator SNOWE has been asking us to do for quite some time. I think we should continue to discuss it after the vote.

It is only 11:30 on Thursday. I think there is a chance we may be able to make some significant progress very soon. In the meantime, we should go ahead and have the vote. The majority leader and I can continue to try to unsnarl this problem and see if we can move forward.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. There is nothing to unsnarl. We have agreed to take out the offending provision that Senators on the other side of the aisle said they wanted out. I took it out. They wanted to offer amendments. I have agreed to let them offer amendments. There is nothing snarled. There is only an effort to stop passage of this bill.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Madam President, the majority leader is graciously giving us three amendments. What I am saying is three amendments is not enough, and he knows that. So we are not expecting to have an unlimited number of amendments, but three amendments will not suffice.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, could I ask the minority leader a question, please. Will he yield?

Would the minority leader be willing to say how many amendments might be enough? The Senator from Maine, the ranking member, said a few. The Senator from Florida—if I could finish—the Senator from Florida, Mr. LEMIEUX, said he thought it would be fair if there were four or five. We have offered three. Is there any sort of possibility—because that would help us get even further.

Mr. MCCONNELL. Is that a question?

Ms. LANDRIEU. Yes.

Mr. MCCONNELL. I will tell my friend from Louisiana that is the sort of thing the majority leader and I work on every day, is to try to determine the number of amendments, and we ought to continue to try to do that.

Ms. LANDRIEU. Madam President, let me press for a minute on this question, because with all due respect to the minority leader, until we can finally agree on that number, it is going to be hard to figure out a path forward. So my question to the minority leader is, so we can do this in a more public way—

The ACTING PRESIDENT pro tempore. The Senate has a cloture vote at this time.

Mr. MCCONNELL. Regular order.

CLOTURE MOTION

The PRESIDING OFFICER. The clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the Reid-Baucus substitute amendment No. 4519 to H.R. 5297, the Small Business Lending Fund Act of 2010:

Harry Reid, Max Baucus, Edward E. Kaufman, Amy Klobuchar, Mark R. Warner, Jeff Merkley, Jack Reed, Jon Tester, John D. Rockefeller IV, Dianne Feinstein, Daniel K. Akaka, Sherrod Brown, Barbara A. Mikulski, Patty Murray, Jeff Bingaman, Debbie Stabenow, Bill Nelson, Carl Levin.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on amendment No. 4519, offered by the Senator from Nevada, Mr. REID, to H.R. 5297, the Small Business Lending Fund Act of 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mrs. HAGAN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 58, nays 42, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—58

Akaka	Gillibrand	Murray
Baucus	Goodwin	Nelson (NE)
Bayh	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Inouye	Reed
Bingaman	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown (OH)	Kerry	Schumer
Burr	Klobuchar	Shaheen
Cantwell	Kohl	Specter
Cardin	Landrieu	Stabenow
Carper	Lautenberg	Tester
Casey	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Dodd	Lieberman	Warner
Dorgan	Lincoln	Webb
Durbin	McCaskill	Whitehouse
Feingold	Menendez	Wyden
Feinstein	Merkley	
Franken	Mikulski	

NAYS—42

Alexander	Crapo	Lugar
Barrasso	DeMint	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Murkowski
Brown (MA)	Graham	Reid
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Corker	Kyl	Voinovich
Cornyn	LeMieux	Wicker

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Madam President, I enter a motion to reconsider the vote by which cloture was not invoked.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. Madam President, I ask unanimous consent that the cloture motion on H.R. 5297 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Ms. LANDRIEU. Madam President, we have had a very enlightening debate this morning on the floor that started at 9:30. It has been continuing until now. The good news about this debate is that although we did not win on this vote—cloture was not invoked—Main Street is still winning and we are alive. We are still standing. Earlier this morning, the two leaders came to the floor and said—basically agreed—that if we can have a few more amendments, what I heard the minority leader say, the Senator from Kentucky—the minority leader said a few more amendments, we could then bring some help to Main Street.

Main Street has been waiting for a year and a half. We have had bill after bill, amendment after amendment. What I heard this morning from the minority leader was very positive. He said: All we need is just a few more amendments. I asked what “a few” was. Was that two or three or four or five? That answer never came. I am assuming that “a few” is a few, and if we work hard over the next few hours and come up with a few, Main Street could win because this bill is about Main Street and businesses on Main Street. It is not about Wall Street. It is not about big banks. It is about small community banks and the small businesses in our country that are desperate for help.

This bill has \$12 billion in tax cuts for small business, not big business. This bill has a \$30 billion lending program that is voluntary, with no restrictions for small banks, not big banks. This bill is supported by over 70 organizations. I would like my colleagues on the other side to know that the chamber of commerce and the National Federation of Independent Business are supporting this bill. Chambers and community bankers all over America are supporting this bill. And we are two votes from passage.

Mrs. BOXER. Madam President, will the Senator yield for one question?

Ms. LANDRIEU. I very much would like to yield to the Senator from California for a question.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I am just asking a question through the Chair. This is the time of the Senator from Louisiana.

I have watched the Senator from Louisiana make a case for this bipartisan bill day after day, and I have heard her lay out why we should come together, Republicans and Democrats, to do something right for small businesses that create 62 percent of all jobs. It is astounding to me that we could not get even one Republican to join with us today. But I do have hope. As we speak, we see the majority leader and the minority leader discussing amendments.

I want to ask my friend two questions. The Senator from Maine gave a very impassioned speech saying that the Democrats were the ones who were stopping this legislation. She said all we needed to do was offer "a few" amendments to the Republicans.

My first question: Is it not true, I say to my friend who is managing this bill, that, in fact, the majority leader, HARRY REID, did offer the other side a few amendments—clearly did before this cloture vote? And the second question is whether my friend would be willing to share with our colleagues and the people who are engaged in this debate how this bill is perhaps the most bipartisan bill ever to come out of any committee. I know my friend gave me that information—title after title after title containing the names of Republicans and Democratic Senators.

So if she would answer those two questions, No. 1, when the Senator from Maine says that our leader did not offer a few amendments to the other side; isn't she incorrect? And, No. 2, isn't this one of the most bipartisan efforts to come out of any committee?

Ms. LANDRIEU. I would like to answer the Senator from California by saying the record will speak for itself because that vote we just took, there were 59 Senators, all on this side of the aisle, who pushed a green light, and there were 41 on the other side who pushed a red light. So it is very clear who is trying to move forward and who is trying to stop this bill. It is very clear.

I don't think there is anyone, even in the press, confused about that because this debate, amazingly, has been so open. So much of it has gone on on the Senate floor that they can actually follow it. These deals are not being done in back rooms; they are being done right here on the Senate floor, and they are following it. They know there are 70 organizations, and they know this bill is bipartisan.

I am just going to read the names, not the provisions, that the Senator was asking about: Landrieu-Snowe, Snowe-Landrieu, Snowe-Merkley-Landrieu-Crapo-Risch, Snowe-Landrieu, Landrieu-Nelson, Snowe-Pryor.

And let's continue: Kerry-Snowe-Menendez, Merkley-Alexander, Snowe, Bingaman-Hatch-Landrieu-Grassley, Baucus-Grassley-Brownback-Inhofe-Johanns-Menendez, Baucus-Grassley-Crapo, Kerry-Ensign—there are 72 cosponsors that Senators KERRY and ENSIGN put on this bill—SNOWE, GRASSLEY.

For the ranking member to come and suggest that there are not enough bipartisan amendments, let me continue. There are more: There is LeMieux-Landrieu, NELSON is on this one, LeMieux-Landrieu-Nelson-Klobuchar.

This bill came out of the Finance Committee and the Small Business Committee with bipartisan support. One of the things we couldn't agree on was the Small Business Lending Fund.

I understand the rules; I have been around here 14 years. So we had a vote on it. You know what. It got 60 votes. The Small Business Lending Program got 60 votes on the floor of the Senate after it passed the House of Representatives.

When I was in school, I learned that once a bill was passed, it comes to the Senate, they pass it, and it goes to the President for signature. Maybe there are some people who don't want that provision to go to the President for signature. I understand that. But we got 60 votes on the bill, as the Senator from California knows.

So here we are. The other side is very good about hiding behind pages. They bring out these big pages of bills and they say: We don't know what is in it, and we can't tell. So I sent the four pages in my hand to all the press organizations today. It is just four pages. Anyone can read this. They are on my Web site and lots of other Web sites. There are just four pages. That is all that is in the bill—all small business items.

There was an agricultural provision that was in the bill that I actually support. Senator LINCOLN put it in the bill, along with Senator CHAMBLISS. But you heard the minority leader say this morning that he didn't think farmers were small businesspeople. I will let him explain that to the farmers in Kentucky. But he said he did not think the provision for the farmers had anything to do with small business. Maybe he hasn't been in a seed store lately, or maybe he hasn't been where people purchase hay and supplies. Maybe he hasn't been to a John Deere dealership, but they sure are all over Louisiana and Arkansas.

Mrs. BOXER. Would the Senator yield?

Ms. LANDRIEU. I yield for a question.

Mrs. BOXER. Of course. I just have one more question for my friend.

We hear every Senator—Democratic, Republican, Independent—say the biggest issue before us, the biggest one is jobs—jobs, jobs, jobs. When my friend goes home, I know she has to deal with the oil disaster and still rebuilding after Katrina. In California, we have our series of deep problems in tough, tough times. But she knows that whatever we do here we have to push forward with policies that create jobs, and we have to keep our eye on the deficit.

So my friend has brought forth a bill, along with Senator BAUCUS and many Republicans—because she just went through the many bipartisan provisions—that will leverage \$30 billion into \$300 billion from the private sector. If we turn that into jobs, we are talking thousands and thousands of jobs created by the innovators, the small businesspeople who have gotten no help. That is why my friend has the sign "Main Street." We have to help Main Street.

So I want to ask in the form of question, and then I will leave the floor at

that point: Isn't this a bill that is desperately needed by our small businesses? Aren't our small businesses the creators of jobs? Is this bill not paid for? And won't this bill deliver the kind of policy that will allow for job growth through growth of small businesses that are solid, with community banks that are solid? Isn't this bill just what we need to do before we leave to go home and be with our constituents in August?

Ms. LANDRIEU. Absolutely, the Senator is correct. I am glad I have this chart to answer her question because she has been representing the State of California beautifully for so many years. She knows this without me showing it, but 81 percent of the jobs lost in America are from small business.

So when the other side complains and complains and just flaps and flaps and flaps all day long about it is a jobless recovery, we have a bill on the floor to create jobs from small business and they say no. That vote today was a "no" vote to give help to small business. They can color it, paint it any way they want. That is what it was.

We know this recovery is having a hard time with jobs. I am going to yield in a minute because there are eight other Senators on the floor who want to speak on different subjects, so I will conclude with this. This isn't MARY LANDRIEU information. This comes from the monthly national employment reports from 2008 to 2010—the job losses with small business.

That crew over there on the other side of that aisle can't run fast enough to help big business, to help Wall Street. But when it comes to voting to help small businesses that are bleeding jobs, they want to run and hide off the floor.

The minority leader said a few amendments. I would like to know how many is a few? Is it three, is it four, is it five, is it six? Let's get a deal done today. I would just as soon do it here, out in the open, but I guess that is not the way things are done here.

So I will yield the floor and let other Senators speak about judges and other things that have to be done because there are other problems in the world. This isn't the only one. This is a big one, but it is not the only one.

I will end with this sign because this is what this debate is about. It is about Main Street. You are either for it or you are against it. It is about as simple as that.

When I became chair of this committee, I said: We are going to fight hard for small business, and I asked the chamber the other day: How many of your members are small businesses? They said: Senator, you would be surprised. It is 96 percent of the members of the chamber.

I asked: Are you all standing up for this bill? They said: Yes, we are. So I thank the chamber and I thank the NFIB. I feel like I am Alice in Wonderland. Most of the time they are on that

side, but this time they are on our side, and we can't get the Republicans to vote.

Finally, the Senator from Utah came to give a feeble argument this morning. He said he could not vote for it because we haven't debated the entire extent of the Bush tax cuts. That is a big debate that we need to have, but we don't have to have it on this bill. These people can't take any more waiting. They have had enough. We can handle that debate on another day, on another bill, but not on this one. So I would suggest to the Senator from Utah that he has quite a few amendments on this bill, and of the few amendments we might have, he may have two.

Mr. DURBIN. Will the Senator yield for a question.

Ms. LANDRIEU. I will yield.

Mr. DURBIN. I see the Senator from Florida is here, but I wanted to ask a question through the Chair.

Is it my understanding that we have been debating this small business bill, which has come out of the committee the Senator from Louisiana chairs, for quite some time now? Isn't this the second week, or maybe even longer? Is it true the other side objected to a provision in the bill because it related to agricultural disaster assistance in a few States?

Ms. LANDRIEU. Yes.

Mr. DURBIN. The Senator from Louisiana argued that farmers are small businesspeople too. So it is not unreasonable to include it. But we decided, in an effort to get a bipartisan agreement on the bill, that we would remove the section they objected to. Then they came in with a list of three amendments and said they wanted to offer these three amendments, which have maybe a loose connection with small business but not much more of a connection, and we said: Fine, you can offer those three amendments, and we will offer three amendments, and let's go and get this done. Then they came back and objected again.

So isn't it correct that right now we are trying to get to a point where we are providing credit to small businesses all across the United States through good sound banks, and that credit will help these small businesses survive and hire more employees, and we are being stopped by the Republicans in our effort to help small business? Is that what is happening?

Ms. LANDRIEU. That is exactly what it looks like. The Senator from Illinois has described it accurately. If anybody believes he has not described it accurately, let them come to the floor because he has described the truth. He has said the truth.

So I am going to yield right now because others wish to talk, but I thank the Senator from Illinois. This battle is going on, and we intend to win it for Main Street. I hope the other side will get their short list of a few amendments together pretty quickly.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Madam President, before the Senator from Louisiana leaves the floor, I just want to say that this issue is very simply characterized as Main Street versus Wall Street. It is a question of whether we are serious about reviving this economy and getting money into the hands of small business through community banks. Anybody voting no on a motion to invoke cloture to go to a bill that is ready to be embraced is inexcusable.

This legislation is critical to getting small businesses back on their feet. That is certainly the case in my State of Florida. It gets the credit flowing again on Main Street through the community banks.

The statistics about small business and jobs is all too familiar. Small businesses create most of the jobs in this country. In the last 15 years, they have created 12 million jobs or two-thirds of the American jobs that have been created. When the economy falters, guess who takes it on the chin the hardest? Small business does. Over the past couple of years, small firms have accounted for between 64 and 80 percent of net job losses. So it is time for us to step up and help them.

For example, in Florida, small businesses play an even bigger role in the local economy. According to the Small Business Administration, small business employers account for 99 percent of the State's employers and provides for nearly half of the State's private sector jobs. Just when it looked as though things could not get worse for small businesses—and especially so in our State—along came the tragic explosion of the Deepwater Horizon platform, and our seasonally adjusted unemployment was 12 percent, representing in our State 1.1 million people out of work in a labor force of 9 million.

We have not yet gauged the full impact of that oil spill on Florida's economy, but there is ample evidence that it is the small businesses that are the ones that have been hurt the worst and the ones who have had to lay off the jobs as a result of that oil spill.

There was a study done by Dun & Bradstreet that found that the impact of the spill on Florida tourism, boating, and fishing industries—these businesses located along the gulf coast—is going to affect 46,000 businesses, with almost 300,000 employees and \$14 billion in sales volume. One of the key features of this legislation and another main reason why we need to pass it is that Small Business Lending Fund. It sets up the voluntary capital investment program, under which the Treasury Department can purchase up to \$30 billion in equity from small banks, those whose total assets fall under \$10 billion. Although the fund is set at \$30 billion, conservative estimates indicate it will lead to \$300 billion in new small business lending. This is the economic shot in the arm that so many States need, including ours. I cosponsored the

amendment that was added to this overall small business bill that put the lending facility back in the bill.

It is an overlooked feature of the legislation that it actually provides \$56 billion in tax relief for small businesses over the next couple years. Upfront tax relief comes in the form of early tax writeoffs for investments in new equipment, new machinery, and new construction. That is all a part of this small business bill. Together with the tax breaks, the targeted tax incentives, and the lending fund, we have a package that is exactly the type of relief small businesses need today. We need to jump-start them and that is what this bill accomplishes.

Obviously, as the Senator from Louisiana has already said, this bill has very wide support. I underscore the Independent Community Bankers of America, and 29 State community banking associations have urged approval of this plan. So does the American Bankers Association, the National Small Business Association, the National Association for the Self-Employed, the Small Business Majority, the National Bankers Association, and the Conference of State Bank Supervisors.

I have heard from many constituents—including small business owners, bankers, chambers, entrepreneurs—who believe this legislation is needed. I am proud to cosponsor it.

I ask unanimous consent to join as a cosponsor of the Baucus-Landrieu substitute amendment because I think it is the right thing to do and the right thing for our State.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. It is my hope we can pass this substitute amendment without further opposition as we are continuing to see.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Madam President, it has been my privilege to work on the measure that is before the Senate, the small business bill that has been championed by my friend from Louisiana, Senator LANDRIEU, that Ms. CANTWELL, the Senator from Washington, has been so instrumental working on, as well as my friend, Senator KLOBUCHAR, with whom I worked on the export portion of this bill.

To the American people at home watching this, this must be a rather confusing process. Why is it that there is a piece of legislation, a Small Business Promotion Act, that has bipartisan support—why is it not being voted on today? Frankly, there are a lot of things around here we cannot agree on—the majority of things, it seems. But this is something we can agree on. It is going to be good for America. I was pleased to sponsor the amendment along with my friend from Louisiana, the LeMieux-Landrieu amendment, which is the lending facility. It is a provision that will bring

money to local community banks to loan money to the people on Main Street—not Wall Street bankers but the bankers you see at Rotary or Kiwanis or at church or synagogue who loan to the auto mechanic, to the dentist, to the hair stylist, to the people working in your local communities.

In my home State of Florida, that is the vast majority of our businesses—nearly 2 million small businesses in Florida, small businesses that are struggling in the worst economy anyone can remember, the worst economy in Florida since the Great Depression.

Today I saw a report out of Florida Trend, one of our leading business magazines, saying that for the first half of the year, Florida now leads the country in home foreclosures. We are No. 1 behind on payments on our mortgages. Our unemployment rate is 11.4 percent, but that does not truly capture how bad the situation is because that unemployment rate is a moving average over time, and after a certain period of time when you have been out of work, you are no longer counted as unemployed because those who make these statistics believe you are not actively in the job market anymore. The truth of it is, if you walk down the street in my home State of Florida, you have a 1-in-5 chance, if you see an able-bodied adult, that they are unemployed or underemployed. Twenty percent is the real number of people who don't have a job or don't have enough of a job.

The people in my State are hurting. This is a bipartisan bill and it should pass. I am hopeful our leaders, Leader REID and Leader MCCONNELL, who are meeting right now, are going to come to an agreement on amendments.

Let me break this down for the American people so they can understand what is going on. Our friends on the other side of the aisle, the Democrats, are in the majority. They have 59 votes. They can control the agenda. We, here on the Republican side, want to offer amendments to bills, but we can only offer amendments by agreement. The majority that is in charge only lets us offer amendments if they agree to it, so we have little bargaining power. But we believe we should have the opportunity to make bills better.

So we are going to have some amendments to this bill, and we should have some amendments to this bill. You know what. If they are good ideas, the power of our ideas will prevail and the other side will agree to them and if they are not, they will not. If the American people, later on, think we have better ideas, maybe they will send more of us here and if they don't, maybe they will send more of them. But we should have the opportunity to offer our amendments.

On the other side, they are going to have some amendments, too, and that is fine, but they should be relevant to this bill. They should not be leftover appropriations on issues that have nothing to do with small business just because this is the train leaving the

station and some Members of this body want to see their stuff put on it. I understand why they want to get things done, but this small business bill should pass, it should pass with relevant amendments from both sides, and we should do it today. We should do it today and pass it and send it over to the House so the House can pass it and send it to the President and he could sign it.

I say that as a Republican because, before I am a Republican, I am a Floridian and I am an American, and this bill is good for our country and it is especially good for my State.

I was pleased that the leader, Leader REID, came down and made some changes in his proposal. I am heartened he is meeting with Leader MCCONNELL right now. I hope they can work this out, because if they cannot work this out, shame on us. Shame on us if we cannot get this done when there is bipartisan support for this bill, a bill that will cut taxes for small businesses providing much needed credit and lending for local community banks to lend to small businesses without increasing taxes and without increasing the debt or deficit. When do we get to do that around here? Not too often—we do not.

I have tried to work in good faith with my friends on the other side to facilitate the negotiations today to get us to a place where we can have reasonable amendments, where the rights of the minority will be protected and in the same vein we can still get this bill passed and I hope we can do so because we have good people on the other side of the aisle who I know want to get this done.

I remain hopeful. I thank Senator LANDRIEU and Senator CANTWELL. I see my friend from Rhode Island, whom I also thank for his good work on this bill, and I hope today we will get this done with a reasonable accommodation so we can help the American people.

Mr. WHITEHOUSE. Will the Senator yield for a question?

Mr. LEMIEUX. I am pleased to.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Through the Chair, if I can inquire of the junior Senator from Florida, is it not true that if one Member of his caucus, just one, had voted with us just a few moments ago on this vote, we would actually be on this bill and we could begin to move to amendments and consider the bill; is that not correct?

Mr. LEMIEUX. That reminds me, my friend, if I may, reminds me of the saying that half the truth is no truth at all. Yes, that part is true. But the rest of the story, as Paul Harvey would say, is if this bill were not loaded with all these appropriations bills that have nothing to do with small business, we would be on this bill right now and it would be passed.

The keys to the kingdom lie with the majority. This deal could be done right now and we could get to this bill.

The PRESIDING OFFICER. The Senator from Colorado.

JUDICIAL NOMINATIONS

Mr. UDALL of Colorado. Madam President, I rise on an important matter that affects all of us, Senators and citizens of our States alike, and that is the shortfall in the process of confirming nominations to the Federal bench. In particular, I wish to talk about one outstanding nominee from my home State of Colorado, William Martinez. Bill has an inspirational story. I will tell you more about it in a minute, but first I wish to explain why there is such an urgency to confirm this fine nominee.

The situation in the Colorado District Court is dire—and I do not use that word easily or casually. There are currently five judges on our court and two vacancies, both of which are rated as judicial emergencies by the Administrative Office of the U.S. Courts. These five judges have been handling the work of seven judges for nearly 2 years, and it has been over 3 years since our court had a full roster of judges.

But there is more to the story. In 2008, based on the significant caseload in Colorado, the Judicial Conference of the United States recommended that an eighth judgeship be created. So you could argue we are actually three judges down from what we should have.

I ask unanimous consent to have printed in the RECORD a letter from Chief Judge Wiley Daniel to Leaders REID and MCCONNELL, explaining the profound impact this vacancy is having on the courts of the District of Colorado.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES DISTRICT COURT,
DISTRICT OF COLORADO,
Denver, CO, May 6, 2010.

Hon. HARRY REID,
Hart Senate Office Building,
Washington, DC.

Hon. MITCH MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS REID AND MCCONNELL, I write this letter in my capacity as Chief Judge for the District of Colorado. As more fully detailed in this letter, our court has suffered multiple judicial vacancies for years. Presently, we are down two district court judges. It is important that you understand that these vacancies have caused a profound impact on the court's ability to discharge its important obligations to the citizens within the State and District of Colorado in a timely and efficient manner.

As you are aware, President Obama nominated William Martinez to be a judge on the court several months ago. Within the past several weeks, he was voted out of the Senate Judiciary Committee and is presently on the Senate floor awaiting a vote. I urgently ask the two of you, in your capacities as Senate Majority and Senate Minority Leaders, to reach a "Time Agreement" so that a Senate vote on Mr. Martinez's nomination can occur. As I am sure you understand, this is a critical resource issue for me as it is my responsibility to ensure the adequacy of judicial resources to handle the business of the court.

The court is presently authorized seven judgeships. At this time, the court has five

active judges and the assistance of five senior judges with each senior judge having various levels of a partial workload.

A history of vacant judgeships continues to impede the public service of the court to the citizens of Colorado and to those outside of the state who depend on the court for timely judicial rulings. For more than three years, the court has not had a full complement of authorized judges.

In March, 2007, Judge Phillip S. Figa underwent medical treatment necessitating extended periods of absence from the court. Following nine months of intermittent service, Judge Figa, unfortunately, passed away on January 5, 2008. During the time of Judge Figa's illness, the majority of his caseload responsibilities were covered by other judges. Following his untimely death, his cases were permanently reassigned to other judges resulting in an average ten percent increase in per judge workload, and the number of active judges went from seven full-time active judges down to six full-time active judges.

Shortly thereafter on March 31, 2008, Judge Walker D. Miller elected to take senior status, and on April 4, 2008, Judge Lewis T. Babcock took senior status. As senior judges, each exercised their discretion to assume reduced caseloads. With the unfortunate death of Judge Figa, and the taking of senior status by two active judges, the number of full-time active judges was reduced to four full-time active judges, a judge vacancy rate of 42.8%.

In July, 2008, the Judicial Conference of the United States conducted a scheduled biennial judgeship need survey. The survey reviews the caseloads of all district courts throughout the nation applying a workload formula to determine the need for additional judges. The survey indicated, and the Judicial Conference subsequently approved, the need for an eighth authorized Article III judge for the District of Colorado. At the time of the survey, the court was attempting to address a workload requiring eight judges with only four full-time active judges.

In October, 2008, two of the three vacant judgeships were filled with the appointments of Judge Philip A. Brimmer and Judge Christine M. Arguello. As a result, the court's judgeship vacancy numbers were reduced from three to one. The court was now staffed with six full-time active judges; however, the overall workload numbers continued to justify a need for eight judges.

On October 29, 2008, Judge Edward W. Nottingham elected to resign from the court. The court was again down by two judges, with five full-time active judges and two vacancies. Over 200 civil and criminal cases formerly assigned to Judge Nottingham were reassigned drastically increasing per judge caseload assignments. From that date to the present, the vacancies have contributed to a growing case backlog within the court.

Before leaving his senatorial office, Secretary of Interior Ken Salazar worked with a local committee of legal experts to identify possible nominees for the vacant two judgeships. In a January 16, 2009 press release it was reported that then Senator Salazar was asking Senator Mark Udall and Senator-Designee Michael Bennet to continue to urge the early appointment of qualified judicial candidates to fill the two vacant positions. In a reported letter to Senator Udall and Mr. Bennet, Senator Salazar wrote "Over the last thirty years, the U. S. District Court has often been plagued with vacancies that have prevented the court from functioning at its full capacity."

Though the court has the continued assistance of well qualified senior judges, and has also been relying on visiting judges from other courts to assist with heavy workloads,

having a fully staffed cadre of authorized judges is the most effective method by which the court can address the needs of those depending on its vital services.

In that the U. S. District Court for the District of Colorado has been subject to lengthy periods of judicial vacancy, I believe it is in the best interest of the court, and the public it serves, that the judicial nomination and appointment process proceed at a responsible pace designed to yield qualified judges within a reasonable period of time. Reasonableness to me means that the two of you agree, without further delay, to set a date certain for a vote on Mr. Martinez's pending nomination.

As the work of the court continues to grow, the court needs judicial officer resources sufficient to conduct the business of the court in a timely and efficient manner. The overall integrity of the federal judicial process can best be maintained by having a sufficient number of judges to address the disputes of our citizenry without unnecessary delay or expense.

In closing, I appreciate your consideration of my viewpoint as to the judgeships urgently needed by the court. Until the two judicial vacancies are filled, it is impossible for the court to possess the judicial resources that are necessary to effectively discharge the business of the court. Scheduling a vote on Mr. Martinez's nomination is the next critical step in this important process. I await your response to this letter including your indication of the date on which the Senate will vote on Mr. Martinez.

Sincerely,

WILEY Y. DANIEL,
Chief Judge.

Mr. UDALL of Colorado. Judicial understaffing in Colorado and in the home State of the Presiding Officer and all the Senators has a real effect on residents and businesses. As the caseload increases for each judge, more and more time must be devoted to criminal cases. That is because the Constitution guarantees a speedy trial. But as time and energy shifts to the criminal docket, the civil docket in turn suffers. It continues to become increasingly difficult to schedule a trial as these backups grow longer and longer.

This increased caseload I am referencing also has a huge impact on our rural and tribal communities around the State as well. Our Federal District judges are all located in Denver, but they often have to travel to other parts of the State for hearings or trials. The geography in Colorado makes travel a little more complicated than in some other States. We have a big State with the Rocky Mountains running right through the middle of our State, and I can tell you from my own experience getting around the mountainous areas of Colorado during the snowy winter months is not easy. As a result, all over the State, residents on the Western Slope and down in the valleys, my tribal constituents, they have a more difficult time accessing the Federal judicial system—as plaintiffs, defendants, even as witnesses.

As pressing as this situation is in Colorado, I know it is not unique. Of the nearly 100 current judicial vacancies, 42 are considered judicial emergencies—almost half. I understand our

Senate has confirmed only 24 nominees so far this year and 36 total since President Obama was elected. That is a historic low.

I don't wish to turn my comments on these nominations to a partisan affair, but the Senate has not kept up with the pace of past Presidents' judicial nominees.

In fact, last year the Senate confirmed the fewest judges in 50 years—50 years.

Bill Martinez, the man whom I spoke of when I began my remarks, was nominated in February of this year, had a hearing in March, and was referred favorably by the Judiciary Committee in April. Today, his nomination has been sitting on the Senate Executive Calendar—on that calendar—for 105 days. Here is the question: Can we set aside our partisanship and support the people who need our system of justice and those who work in our system of justice? The people of Colorado want us to vote on Bill Martinez and help us reduce the workload on the Federal District Court of Colorado.

Senator BENNET has joined me, and I know he is going to speak in a few minutes.

Last year, we convened a bipartisan advisory committee so that we could have the best candidates put forward. It was ably chaired by Denver lawyer Hal Haddon, a well-known figure, and former Colorado Supreme Court Justice Rebecca Kourlis. The committee interviewed numerous candidates, and based on his life experience, his record of legal service, and his impressive abilities, we both recommended, on the advice of the committee, Bill Martinez for a Federal judgeship.

I know I was very impressed with Bill. In addition to being an accomplished attorney and a true role model in his community, Bill has a personal story which captures what is great about America and highlights what can be accomplished when you have focus, discipline, and you work hard.

Bill was born in Mexico City and lawfully immigrated to the United States as a child. He worked his way through school and college and toward a career in the law. He received undergraduate degrees in environmental engineering and political science from the University of Illinois and earned a law degree from the University of Chicago. As a lawyer, he is an expert in employment and civil rights law. He currently practices in those areas. He previously served as the regional attorney for the U.S. Equal Opportunity Commission in Denver.

I believe—as we all do, I think—in strong, well-balanced courts that serve the needs of our citizens. Bill Martinez brings that sense of balance because of his broad legal background, professionalism, and outstanding intellect. I am pleased to have been able to recommend Bill, and I am certain that once he is confirmed, he will make an outstanding judge.

I was going to ask for unanimous consent that we move to consider Mr.

Martinez's nomination. I am going to hold back on that request for the time being, but I want those who watch the Chamber to know that a group of us who are going to speak to this backlog are going to ask, at the appropriate time, for that to be considered.

Whatever happens today in these unanimous consent requests—and I would hope they would be granted—I am not going to give up. I am going to continue to work with people on both sides of the aisle, as well as any Senator who might have reason to block Bill Martinez's nomination, to find a reasonable solution so we can fully stock our courts and we can deliver justice and services to our citizens, who deserve courts that are up and running fully.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BENNET. Madam President, I also rise today in support of Bill Martinez's nomination to serve on the Federal district court in Colorado.

Before I talk about that, I wish to take a moment to address this small business bill that is before the Senate because people are watching this in my State, and they are saying to themselves: We have spent 18 months with credit frozen—longer than that for small businesses—and Washington cannot seem to do anything for us.

Today is the day Washington could do something for small businesses in my State and across the country. And it is not a case of Democrat against Republican; this feels to me like a case of Washington politics against the rest of the country. So I lend my voice to the Senator from Florida and say that I hope the leadership can get it together.

I wish to add my push today for the unanimous consent request of the senior Senator from Colorado to consider this nomination of Bill Martinez. We need him confirmed so he can begin serving our State.

Bill appeared before the Judiciary Committee in March, where I had the privilege of introducing him. His nomination passed the committee with votes to spare in April. The Martinez nomination, like so many others, has gotten stuck because of the obstructionist tactics of a few.

So this man with a breadth of public and private sector legal experience that makes him more than qualified to serve on the Federal bench is being held up month after month.

Like my senior Senator, I am frustrated with the secret delays in this body. The purposeless shelving of nominations such as this one and even of important legislation affects real lives and poisons the atmosphere in the Senate.

There are 99 vacancies in the Federal court right now. To date, the President has nominated 39 individuals to fill these vacancies. For the sake of judicial efficiency and ensuring fair access for all of our people to our courts, I think it is time to move ahead on out-

standing nominees who have cleared the Judiciary Committee easily. For the nominees, careers and families are being put on hold. If a nominee is unqualified or unfit for office, then let's have those concerns registered for public consumption.

Like far too many Coloradans, I am so frustrated with our broken politics. Instead of making sure qualified candidates are confirmed to key government posts, the Senate has secret holds and stall tactics. It is painful to watch, and it is painful to the American people to live through.

Bill Martinez, for one, has earned better treatment through a lifetime of professional achievement. He has a stellar reputation and credentials in Denver and possesses rare intangibles too. His career spans the legal profession and represents a true immigrant success story on which this country is founded. Bill was the first in his family to attend college. His experience is an inspiration to all Coloradans.

Is there any reason this attorney with an expertise in employment law and civil rights, coupled with years of courtroom experience, should not receive an up-or-down vote? I, for one, would like to know, as would the people of Colorado. I ask my colleagues to end the delay of consideration of Bill Martinez. Let's have an up-or-down vote on Bill Martinez and then move forward and go through other remaining nominees being needlessly upheld.

HEALTHY, HUNGER-FREE KIDS ACT

With the indulgence of my colleague from Minnesota, I wanted to mention one last thing. While I am here, I would also like to call attention to another priority that languishes as the Senate wastes time wrangling over nominees and partisan politics: the Healthy, Hunger-Free Kids Act, a fully paid for, bipartisan bill that unanimously passed out of committee last March. This bill will make a tangible difference in the lives of millions of children.

It is high time the Senate begin doing the people's business again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Madam President, I rise today to address the need to move quickly and to confirm several qualified judicial nominees—I would say many qualified judicial nominees. You are going to hear about a number of them today. I am going to talk specifically about the highly qualified nominee for the District of Minnesota who was unanimously voted out of our Judiciary Committee more than a month ago.

Our failure to confirm Susan Richard Nelson quickly has consequences for my State. The judge she has been nominated to replace took senior status as of last October and is stepping down from the Federal bench altogether in a couple of weeks. That means a smaller number of judges will be doing the same heavy workload until she is con-

firmed, which is not fair to my State or many of the States you will hear from today.

This nomination is important to our district. Our district's caseload has increased significantly in recent years. In fact, as of June 2008, our district had the second highest number of case filings per judgeship in the entire country—the second highest in 2008 in the entire country. Yet, if she is not confirmed after coming through our committee unanimously, we will be down a judge even though we have this high caseload. Even as of December 2009, we were still in the top 10 most overloaded districts in the country. From 2008 to 2009, the district saw a 54-percent jump in the number of civil cases filed. That is over 5,000 civil cases currently pending and only 6 judges on a full-time status to deal with these cases, not to mention the docket of criminal cases on top of that. The district needs Judge Nelson to be confirmed quickly. Delay is not an option.

It is worth noting that by this time in President Bush's administration, we had confirmed 61 judicial nominees. By contrast, we have only confirmed 36 of President Obama's.

When a vacancy arose on the Federal district court in Minnesota, I convened a judicial selection committee to consider mainly highly qualified candidates. From this fine pool of applicants, I recommended Susan Richard Nelson to the President. President Obama formally nominated her for this position, and I appreciate the work of Senator LEAHY and Senator SESSIONS, who is also here, in making sure she had a speedy nomination hearing. However—this is a familiar story for several nominees—after Susan Richard Nelson received a unanimous vote in the committee, her nomination stalled on the Senate floor.

There is no reason to hold up this nomination. Susan Richard Nelson is exactly the kind of person you would like to see sitting in a judge's seat. She has been a magistrate judge for the District of Minnesota for the last 8 years, where she has earned the respect of litigants, lawyers, and judicial colleagues alike. She has the judicial temperament, personal integrity, and keen legal mind that are absolute prerequisites for this job. Throughout her tenure, she has gained a reputation as a fair but stern magistrate judge, one who is thorough and prepared. She has been described as a judge "who favors neither plaintiff nor defendant, who listens carefully to both sides of every matter she hears, and who can be relied upon to give articulate, well-reasoned explanations for her decisions." The ABA Standing Committee on the Federal Judiciary unanimously gave Judge Nelson their highest rating.

I believe she will make a fine Federal judge, and that is why I rise to speak today. But this is not just a Minnesota issue; this is a national issue. As a

former prosecutor, I know what happens when you have an overloaded judiciary, when you do not have the players in place, either the prosecutor, the public defender, or the judges. When you do not have judges available to hear cases, judges whose time is spread too thin, cases do not get heard, victims do not get justice, and litigants do not get their problems solved. In other words, it slows down the wheels of justice when you do not have the people in place to actually hear the cases.

It is my hope again that we can end this waiting game and confirm these nominees. I truly appreciate the bipartisanship work on our committee to get these judges through to the floor. But now is the time to get the work done.

I know we will be asking for unanimous consent for a group of the judges whom we are addressing. I know Susan Richard Nelson's name will be included at that time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Madam President, I rise to today in support of Louis Butler's nomination to be District Court Judge for the Western District of Wisconsin. Justice Butler is an accomplished lawyer whose career has been distinguished across the board as an advocate, trial court judge, Wisconsin Supreme Court justice, and professor. He is supported throughout Wisconsin and I am confident that he will be an excellent Federal judge.

For 30 years, Justice Butler has dedicated himself to public service. He began his career fighting for the rights of indigent defendants as a public defender. He was the first public defender in Wisconsin history to argue a case before the U.S. Supreme Court.

As a trial court judge, he earned a reputation for being a tough but fair jurist and was recognized as a top Milwaukee judge. For more than 10 years, Justice Butler has shared his expertise and knowledge by training judges as a faculty member of the National Judicial College.

Justice Butler served with distinction on the Wisconsin Supreme Court for 4 years. There, he participated in hundreds of cases, many of, which were decided by a unanimous or near-unanimous court. During his 4 years on the bench, he proved himself to be a hardworking, thoughtful and consensus building jurist.

Throughout his career, Justice Butler has been a judge who upholds the rule of law in an impartial and deeply respectful manner. He possesses all the best qualities that we look for in a judge: intelligence, diligence, humility, and integrity. In addition to Justice Butler's impressive legal background and solid record as a judge, he is a fine man. He is deeply committed to his family, to his community, and to public service.

Justice Butler's nomination proves once again that the process we use in

Wisconsin to choose federal judges and U.S. attorneys ensures excellence. The Wisconsin Federal Nominating Commission has been used to select Federal judges and U.S. attorneys in Wisconsin for 30 years, through Republican and Democratic administrations and the tenure of Senators from both parties. Through a great deal of cooperation and careful consideration, and by keeping politics to a minimum, we always find highly qualified candidates like Justice Butler.

I along with Senator FEINGOLD are confident that the people of Wisconsin will be enormously proud of him and that he will serve them well.

So, it is clear that this upstanding and well-qualified nominee should be promptly considered by the Senate. Justice Butler has been pending for far too long and a vote on his confirmation is overdue. Someone like this deserves an up or down vote. I understand that some of my colleagues may oppose his nomination, and I accept that, but let us take an up or down vote as soon as possible.

Mr. FEINGOLD. Madam President, I am pleased to support the efforts of my colleagues to call attention to the refusal of Republicans in the Senate to allow confirmation votes on judicial nominees. We have all heard the numbers only 9 circuit and 27 district judges confirmed so far in this Congress, 7 circuit and 14 district judges now awaiting floor action, with 15 of those nominees having been reported by the Judiciary Committee before the end of May. This is an inexcusable blockade of justice in America for wholly political reasons, and it needs to stop.

I am pleased also to join the senior Senator from my State, Mr. KOHL, in specifically seeking consent to debate and vote on Justice Louis Butler's nomination to be a U.S. District Judge for the Western District of Wisconsin. Justice Butler, who was the first African American to serve on Wisconsin's Supreme Court, was first reported by the Judiciary Committee on December 3, 2009. He has essentially been waiting for the full Senate to take up his nomination for more than 7 months.

Justice Butler is the product of a system for picking Federal judges and U.S. attorneys in our State that has been used since the late 1970s. A nominating commission interviews and considers applicants and presents a slate of candidates to the Senators. We then send our recommendations to the President drawn solely from the commission-approved slate. This process has yielded highly qualified nominees under both Republican and Democratic presidents, and the nominees have had the support of both Republican and Democratic Senators.

Justice Butler clearly has the experience and the qualifications needed to serve with distinction as a U.S. District Court judge. First, he has experience as a judge on both the trial court and appellate court levels in Wis-

consin. He understands the difference between following precedent and making precedent. Handling criminal trials is probably the biggest job of a Federal trial judge, and Justice Butler has a great deal of criminal experience both as a judge and as a public defender in his early days as a practicing lawyer. He is well versed in Wisconsin law, which as we know is often applied in diversity jurisdiction cases in the Federal courts.

Justice Butler is widely admired for his intellect and his judicial temperament. In 1997, Milwaukee Magazine named him the top municipal judge in the city. He has been a law professor. In short, he has a depth of experience that is unusual for a nominee to the district court.

Justice Butler has been a trailblazer in our State. As I mentioned, he was the first African American to serve on the Wisconsin Supreme Court, and he would be the first African American to be a judge on the Western District. He is a man of great distinction and achievement.

Justice Butler is a thoughtful and conscientious judge. I know I will not agree with every decision he makes, just as I do not necessarily agree with everything he has said or done thus far. But I know he will be conscious of the judicial role, and that he will make his decisions based on the facts and the law and do his very best to carry out his responsibilities with dignity and care, as he has done throughout his career.

Now I understand that Justice Butler's nomination is opposed by some Members of the Senate and a number of outside organizations. The Republicans on the Judiciary Committee voted against the nomination. They have every right to do so, and I respect their positions. I believe the arguments against him are misguided and unfair. But I am prepared to have that debate on the Senate floor and live with the result, if only the Republicans will allow the debate to take place.

It is time for the delay of Justice Butler's nomination and the other nominations that have been pending for months to end. Let's have a debate and a vote. I thank Mr. KOHL and my other colleagues for shining a spotlight on this issue, and I hope we can look forward to debating and voting on the pending judicial nominations soon. Such delay, particularly for a district court nominee, is unprecedented. I urge my colleagues to consider Justice Butler's nomination forthwith.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I rise to join Rhode Island's senior Senator JACK REED and other colleagues to call attention to the recurring Republican roadblock of qualified nominees to circuit and district courts. On the circuit courts, I spoke some time ago about Albert Diaz and James Wynn to sit on the fourth circuit in North Carolina. I know the Presiding Officer has a

keen interest in those two. These two were reported out of the Judiciary Committee on January 28, 2010, 6 months ago yesterday. Albert Diaz was voted out 19 to 0. James Wynn was voted out 18 to 1. That means a combined score of 37 to 1 for these two candidates whom the two Senators from North Carolina had agreed on, a Republican Senator and a Democratic Senator. I came to the floor 3 months ago, given that background, on April 20 to ask unanimous consent for their confirmation. Senator KYL, who voted for both of these nominees in committee, objected on behalf of his colleagues. That is the environment we are in.

Unfortunately, that environment has filtered down to district judges. Consider the four district court nominees currently on the Executive Calendar, voted out of committee by a party-line vote, who are ahead of our Rhode Island nominee and who have to be cleared before we get to our Rhode Island judge. Lewis Butler is a former Wisconsin Supreme Court justice. Ed Chen and Benita Pearson are long-serving and well-respected Federal magistrate judges in San Francisco and Akron, OH. Bill Martinez is a well-known and well-respected attorney in Colorado. Each nominee had the full support of both of their home State Senators. Each nominee would bring proper expertise, judicial temperament, and great diversity to the bench. Each nominee would be confirmed, if we could simply get them voted on by the Senate. The way these nominees have been treated stands in stark contrast to the way district court nominees were treated in the Bush administration. In 8 years, only one district court nominee during the Bush administration was reported by the Judiciary Committee on a party-line vote. That nominee got a vote and was confirmed on this floor 51 to 46.

Why is it that nominees of President Obama are being held to a different, new standard than applied to the nominees of President Bush? Why have we departed from the longstanding tradition of respect to the views of home State Senators who know the nominees best and who best understand their home districts? Is disregard for the views of home State Senators the standard Republicans want to live by during the next Republican Presidency? Is that the new precedent we wish to set here in the Senate? I ask this because we have a highly qualified nominee in Rhode Island, Jack McConnell, who was reported by the Judiciary Committee on June 17. It was a bipartisan vote, 13 to 6, with the support of Senator LINDSEY GRAHAM. Jack McConnell is a pillar of the legal community in Rhode Island. He is a pillar of the community generally in Rhode Island, serving with great generosity and distinction on numerous boards that help communities in Rhode Island. The Providence Chamber of Commerce has praised Jack McConnell as a well-respected member of the local commu-

nity. Political figures from across our political spectrum have called for his confirmation, one of them being my predecessor as Rhode Island attorney general, Republican Jeffrey Pine. The Providence Journal, our hometown paper, has endorsed his nomination by saying that Jack McConnell, in his legal work and community leadership, has shown that he has the legal intelligence, character, compassion, and independence to be a distinguished jurist.

Notwithstanding the support of Senator REED and myself, the two Senators from Rhode Island, notwithstanding that this is a district court nomination, notwithstanding the powerful support across Rhode Island from those who know Jack McConnell best, special interests from outside the State have interfered in his nomination. The U.S. Chamber of Commerce, not the Rhode Island chapter, the U.S. Chamber of Commerce has attacked Jack for having the temerity to stand up to big business, to the asbestos industry, to the lead paint industry, to the tobacco industry, and to have devoted his career to representing the rights of the powerless. In doing so, the U.S. Chamber has created a cartoon image of Jack McConnell that bears no relation to the man Senator REED and I know as a great lawyer, as a great Rhode Islander, and somebody who will be a great judge.

I ask my colleagues—I see the distinguished ranking member of the Judiciary Committee here on the floor with us today, the distinguished Senator from Alabama—do we want to let powerful out-of-State interests trump the better informed views of home State Senators about district court nominees? That is not the tradition of this body. I again ask my colleagues: Is this the tradition they want to set? If they open the door to out-of-State special interests trumping the considered judgment of home State Senators on district court nominees, will they ever get that door closed again? I submit it is a mistake for this body to go that road. I urge colleagues on the other side to reconsider what I think is a terrible mistake, which is to allow out-of-State special interests to prevail over the considered judgment of home State Senators when they agree on the best qualified nominee for district court in their home State.

I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Rhode Island.

Mr. REED. Mr. President, I join my colleague from Rhode Island who, with eloquence and passion, has clearly highlighted a disturbing phenomenon taking place in this Chamber. Well-qualified individuals who have received the support of the Judiciary Committee—in many cases, unanimous support—are being denied a final confirmation vote by the full Chamber. This is a break from our history. At the end of the first Congress, during

President Reagan's first term, 88 Circuit and District Court nominees were confirmed. At the end of the first Congress during President George H.W. Bush's term, 72 Circuit and District Court nominees were confirmed. At the end of the first Congress under President Clinton, 126 Circuit and District Court nominees were confirmed. At the end of the first Congress during President George W. Bush's first term, 100 Circuit and District Court nominees were confirmed. As of now, if nothing else is done, President Obama, at the end of this Congress, will have only 36 Circuit and District Court nominees confirmed by the Senate, in contrast to 88 for President Reagan, 72 for President George H.W. Bush, 126 for President Clinton, and 100 for George W. Bush.

Something is going on here. What is going on is a deliberate attempt by the minority to frustrate the traditions and precedents of the Senate where, as Senator WHITEHOUSE suggested, there is a long-held view that Senators have more insight into the skills, ability, and integrity of nominees from the Senators' home State than national special interest groups, whose major goal seems to be the generation of controversy for the purposes of contributions.

We in Rhode Island have an extraordinarily competent and capable individual. As Senator WHITEHOUSE indicated, Jack McConnell is an accomplished attorney. He is a plaintiff's lawyer. He takes cases of individual Americans, who have been harmed, and he fights the good fight for them. He has been very successful doing it. He has received the bipartisan support of members of the bar, judges of both political parties, and the Providence Journal, our major Statewide newspaper, which has a reputation of being very sensitive to the legitimate concerns and needs of our business community. He is supported because he is an outstanding attorney and because he is an outstanding individual. He is someone who knows the law and knows the court. I am always kind of interested when someone who has spent a long time as a corporate counsel for a big corporation is suddenly—and in most cases—very quickly confirmed as a District Court Judge, even though that individual may or may not have had a lot of experience in a trial court. Here, we have an individual who actually has spent his life in trial court, both Federal and State courts.

Jack McConnell is a fair and good man, and he understands that a judge must hear the facts, apply the law, and indicate clearly to all plaintiffs and defendants who come before the court that there is no bias and that the case will be decided fairly on the merits within the bounds of the law. That is something all of my colleagues in Rhode Island, Republicans and Democrats alike, recognize that Jack McConnell will do.

There is something else about this individual. He is an extraordinarily decent person. That counts for something too. There is no one in our State who is more generous, not only with his money, but with his time. There is no one in our State who is more committed to helping people, not to gain notoriety, but because it is the right thing to do. Those qualities are important. Ultimately, I believe one of the major criteria that should be met by a Judge is that when someone goes before the court, whether it is a big corporation or a person who has been harmed, they know they will be treated fairly. Frankly, Jack McConnell passed that test with flying colors. As Senator WHITEHOUSE pointed out, he passed the Judiciary Committee on a bipartisan vote. I thank Senator LINDSEY GRAHAM, who has used his experience as a lawyer fighting for individuals as well as corporations. He was able to recognize these talents, these skills, and these qualities in Jack McConnell and support him. I appreciate that. But we are here now in a situation where not only Jack McConnell, but 21 other nominees are pending. We have to do more. We have to get them to a vote here in the Senate, and I will insist upon that vote as best I can.

Again, the numbers don't lie. They suggest there is something going on here, something that was not at work during the Reagan administration, the George H.W. Bush administration, the Clinton administration, and the George W. Bush administration, regardless of which party was in the majority or the minority. Particularly, when it came to District Court Judges, if they had cleared the Judiciary Committee, if they had the support of the two Senators from the home State, there would be at least an opportunity, an obligation, to bring their nomination to a vote and let the Senate, as a whole, decide.

I urge that we return to what has been a dependable practice, one the Senate has embraced for good reasons, that we let these gentlemen and ladies come to the floor for a vote, and that we vote.

That is all we ask. I think if that is agreed to, it will provide for not only the disposition of these nominations, but it will continue a tradition of thoughtful, appropriate practice by this Senate.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I join my colleagues who are expressing our frustration on the inability of the Senate to take up for confirmation judges who have been approved by the Judiciary Committee. You have heard our colleagues from Colorado, Minnesota and Rhode Island and there are many others who have come down and given similar circumstances about their judges being held up from a final vote.

I know next week we will be considering the nomination of Elena Kagan

to the Supreme Court of the United States and that will get a lot of attention and rightly so. It should get a lot of attention.

Let me point out the facts. The Supreme Court will issue less than 100 opinions in a given year; whereas, our circuit courts of appeals will issue many more opinions that will have a direct impact on the lives of the people of this Nation. Most Americans who have contact with a court are going to have contact with the district court and the circuit court, where the cases are heard, where the juries are convened in trials. So there is a great interest in making sure we have confirmed judges for our intermediate appellate courts and our district courts.

Here is the problem. The vacancies in these judgeships today are about 11 percent of the court. More than 1 out of every 10 judicial spots is vacant currently in the United States. My colleagues have told you about the backlog. So let me try to put it in, I hope, terms that those listening to this debate will understand as to why we are so frustrated by the obstructionist tactics being taken by our Republican colleagues.

Most nominees for judicial vacancies, once they have cleared the Judiciary Committee, are brought forward under unanimous consent; that is, if they have the support of their home State Senators, if there has not been controversy in their nomination, if the Judiciary Committee has approved them by a bipartisan vote, they will come to the floor of the Senate by unanimous consent and will be handled that way.

Well, we are not able to do that because Republican Senators are objecting to that process. So we go to the next level. We say: OK, if we need to have debate on the floor, how much debate time do you need—1 hour, 2 hours, 4 hours? Well, we cannot get consent to the number of hours in order to debate the nominee and then vote on the nominee in an up-or-down vote. The majority leader said we could have that time, but they will not allow us to bring the nomination to the floor.

So then the only course the majority leader has will be to file a cloture motion. A cloture motion takes several days, and we have 100 vacancies on our district and appellate courts. Obviously, we do not have enough time.

So let me give you an example on the Fourth Circuit: Judge Barbara Keenan. I chaired her confirmation hearing. I chaired that confirmation hearing on October 3 of last year. The Judiciary Committee reported her out by a voice vote on October 29. That was October 29 of last year. It took us until March of this year to be able to get her nomination to the floor, and then it was not by unanimous consent. It was not by a consent as to the amount of time necessary to consider this nominee on the floor and then a vote afterwards. It came to the floor through a cloture motion the majority leader had to file—a cloture motion—because we

could not get consent to bring up her nomination almost 5 months after the committee acted on her nomination.

What happened with the cloture motion? It was approved 99 to 0 on the floor of the Senate, and she was ultimately approved as an appellate court judge by a 99-to-0 vote.

My point is simple: These were dilatory actions in order to slow down the process of the confirmation of judges which my friends on the Republican side have used. That is why we had these huge numbers. As my colleague from Rhode Island pointed out, the numbers tell the facts. There were twice as many judges confirmed by this time when a Republican controlled the White House than there are today. In other words, we are working at less than one-half the pace than when the tables were turned. That is wrong.

My friend from Rhode Island, Senator WHITEHOUSE, talked about two vacancies we want to fill in the Fourth Circuit. The Fourth Circuit includes the State of Maryland. The two vacancies we want to fill are the North Carolinian spots, in which the two Senators—one a Democrat, one a Republican—have recommended their confirmation: James Wynn and Albert Diaz.

Well, we held that confirmation hearing—and I chaired that also—in December of last year. The committee reported them out in January of 2010. In Mr. Wynn's case, the vote was 18 to 1; and in Mr. Diaz's case, it was 19 to 0. Both of these judicial candidates were considered "well qualified"—the highest rating by the American Bar Association—and they would add greatly to the diversity on the Fourth Circuit, a circuit that is not known for its diversity. James Wynn would be the third African American to serve on the Fourth Circuit and Albert Diaz would be the first Latino.

It is time—well past time—for these nominees to be confirmed by the Senate. I do not think anyone doubts, once this issue is taken up, both these individuals will be confirmed. Look at the votes in committee.

For noncontroversial judicial nominations, it has taken, on average, 2 months, after the Judiciary Committee has acted, for a district court nominee to be considered by the full Senate; and over 4 months for a circuit court of appeals nominee. That is not doing the work the Senate should do. There have been dilatory actions in order to slow down the process, and that is not what we should be doing as Members of the Senate.

So I urge my colleagues, as my friends who have taken the floor today have done, let's get on with the process of confirming these noncontroversial judicial nominees. Let's give the people what they deserve; that is, a full complement of their judges. We should do better than we have done in the past. I urge us to put aside our partisan differences. This is not a tactic that should be used. It is time we move forward on the confirmation process.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. Mr. President, I thank the Senator from Colorado, Mr. UDALL, and his staff for arranging this opportunity for us to speak on what is a far more important issue than I would have imagined, oh, 20 years ago.

Before I came to the Senate, in 2001, I was privileged to serve as Governor of my State for 8 years. I ran for that position in 1992, and my opponent was a very good man named B. Gary Scott. During the course of our campaign for the Governorship of Delaware, we had something like 30 or more joint appearances. All kinds of questions were raised by the audience members at those joint appearances, and we would respond to the questions that were raised.

I do not recall one question in any of those joint appearances related to what kind of criteria we would use to consider nominees for the judgeships in the State of Delaware. As it turns out, some of the judgeships in Delaware, some of the courts in Delaware, have national importance, national prominence—the Court of Chancery, the Delaware State Supreme Court. That was an issue that never came up.

When I was fortunate enough to win, in 1993, I ended up, for the next 8 years, actually spending a lot of time thinking about the qualities we should look for in the candidates for judgeships I would nominate to all our courts and ask the Delaware State senate to confirm. I am grateful to the State they confirmed them all.

I came to the Senate in 2001. I ran against a wonderful man, Bill Roth, who had been our Senator for a long time. During our campaign, no one ever raised with us, to my recollection: What kind of qualities would you look for if you were in a position, as senior Senator, to recommend judges to the President of the United States for our courts, either for our district court or for the Third Circuit Court in which we are a part?

But I had thought for years about the qualities I would look for, and the qualities look something like this: I concluded that my job in nominating people as Governor and in recommending people to this President or other Presidents is that we ought to look for somebody who is bright, smart, who knows the law, somebody who also embraces what I call the Golden Rule, treats other people the way he or she wants to be treated; that when they come before the court, the judge will treat all sides the same; that they will not go into a hearing or a proceeding having made up their mind; that they will show no favoritism to either side.

I think it is important to nominate folks who have a strong work ethic and who will work hard to find the right decision, that they will have the ability to make a decision. Sometimes folks have a hard time making deci-

sions. They should not be judges. We need judges who can make a decision and often the right decision.

That is sort of the criteria I used in my last job, and it is the criteria I have used in my current position as I have suggested people—now twice—to this President to consider for filling vacancies on the U.S. district court in my State.

We have four district court judges in our State at most times; we have that many judgeships. For several years, we have been down to three. As of tomorrow, we will be down to two, with the retirement of Judge Joe Farnan, who will step down for his well-earned retirement.

But last year, I was pleased to provide to our President the names of three highly qualified Delawareans for him to consider for nomination to the U.S. District Court in Delaware. I said at the time—and I say here today—the talent pool from which I selected those three names was the strongest pool I have seen in my 8 years as Governor and during the time I have been here as a Senator. At least a half dozen of the people who applied for that judgeship to be a Federal judge would make us all proud. I could only select three and I selected three terrific candidates and submitted those to the administration last year.

After careful deliberation, in March of this year, the President selected one name, and he sent to the Senate the nomination of U.S. magistrate Len Stark for a seat on the Delaware District Court.

Following his nomination in March, I was honored to introduce Len at his confirmation hearing before the Senate Judiciary Committee in April. Ironically, the hearing was chaired by committee member Ted Kaufman from Delaware. Judge Stark was well received by the committee at that hearing and was unanimously approved by the committee in May of this year.

So far so good. But since that time, for the last almost 3 months now, that nomination has basically been held up. We have not had an opportunity to debate it. We have not had an opportunity to vote on it, through no fault of Judge Stark.

I think the lack of a U.S. district court judge in almost any State, large or small, is a problem. When you happen to have a court with four judgeships, and you are down to three, the workload does not go away. The workload is the same. The judges have to work harder. That is fine for a while. We go out and we literally borrow district court judges from other States to come in and sit with our court in Delaware to try to deal with the workload. That works for a while, but it is sort of robbing Peter to pay Paul. They have work to do in their own States in their own courts.

When you go from three to two, and you have two judges trying to do the work of four, it does not work. It is not fair, and it means we delay, in too

many cases, the justice that is needed. I do not recall who it was who said—I want to say it was William Gladstone, a former British Prime Minister, who once said: Justice delayed is justice denied. My fear is, if we find ourselves, next week, with two judges—with two judges—in our district court, justice will be delayed and justice will be denied.

Not everybody in this Chamber has a real understanding of who Len Stark is and what kind of person he is. I wish to take a few minutes to sort of introduce him to those who do not know him. Len Stark is a fellow University of Delaware graduate. Unlike most people who graduate—they maybe get an undergraduate degree with one major—when he graduated, in 1991, he earned an undergraduate degree in economics and an undergraduate degree in political science and he earned a master's degree in history, all at the same time. He was an extraordinary student at the University of Delaware. As a student there he received a full scholarship as the Eugene du Pont Memorial Distinguished Scholarship. Following graduation, he was twice honored by his fellow students and alumni by serving as their commencement speaker.

Immediately upon graduating from the University of Delaware, Len Stark was elected a Rhodes Scholar. He studied at Oxford University. He has authored numerous academic and scholarly publications, including a book on British politics which he wrote—listen to this—in his spare time during his studies at Oxford. After Oxford, Len then went on to earn his law degree at Yale Law School where he served as senior editor of the Yale Law Journal.

Len launched his legal career as a clerk for one of the most distinguished judges to come out of Delaware in the last century—Walter Stapleton—on the Third Circuit Court of Appeals, and after that he practiced as a corporate litigator for the law firm of Skadden Arps.

Len began his public service as an assistant U.S. attorney for Delaware, where from 2002 until 2007 he handled a wide variety of Federal, criminal, and civil matters. Currently, Len Stark serves the U.S. District Court of Delaware as a magistrate judge. In this position he has already done much of the same work as a district court judge. His docket consists of civil cases that are referred to him by the three active district court judges—at least three active as of today, not after tomorrow. On these referral cases, a great many of which are patent infringement actions, Judge Stark handles all types of pretrial matters, and in certain cases even presides at trial, just as he would if he were confirmed as our new district court judge.

If I were half as accomplished as Len Stark is and half as smart as he is, my colleagues wouldn't want to be in the same room with me. But Len Stark is as humble a person as I know. He is a dedicated public servant. He has a

great family. He is a dedicated husband, father, and person of great integrity and character. In every facet of his life he has performed with distinction, earning the highest praise from his colleagues and many of the most prestigious awards given to legal scholars and public servants.

I can sum this up by simply saying that Len Stark has the heart of a servant. He has a big heart. A little State, Delaware, but we have a guy with a heart as big as Texas. Judge Stark's position as magistrate on the U.S. district court clearly provides him with the skills to be not just an adequate district court judge, he will be an outstanding district court judge.

Len's legal acumen, his tireless work ethic, and his experience as a Federal magistrate judge, as assistant U.S. attorney and litigator, have prepared him well for this seat on the U.S. district court in Delaware.

I will be honest with you. It is hard to think of anybody who would be a better candidate, a better choice to serve in this position. With that having been said, we all know there are a bunch of good candidates like Len Stark—Maybe not just like Len Stark, but people who are equally qualified who should be serving in vacancies around the country, and they ought to be confirmed.

I will close with this, before yielding to Senator KAUFMAN. I wish to close with this: I have just come from a Bible study group. We meet every Thursday for about a half an hour off the Senate floor with our Senate Chaplain. It is sort of like an adult Sunday school class. Democrats, Republicans there, people of different faiths.

One of the things Chaplain Barry Black is always reminding us to do is to treat other people the way we want to be treated. He urges us to live our faith. I don't care what faith we subscribe to, almost every faith, that idea of treating other people the way we want to be treated is a fundamental, basic tenet. It should be a fundamental, basic tenet with the way we behave in the Senate, whether the Democrats are in the majority or the Republicans are in the majority; whether the President is a Democrat or the President is a Republican.

When we have somebody as good as this man is, Len Stark, and we have such a dire need for a district court judge in the district court in Delaware, I would just ask my Republican colleagues to put themselves in our shoes to see if they can't find it in their hearts to give us the opportunity to vote up or down on this nomination.

Thank you very much. I am pleased to yield the floor for my colleague and friend from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KAUFMAN. Mr. President, I rise to echo the comments of my colleagues and object to the tactics being used by the minority in the Congress to block and delay confirmation votes for President Obama's judicial nominees.

I support this body's—I really do—I support this body's longstanding tradition of respecting the rights of the minority. I think it is one of the most important characteristics of the Senate. I am not one of those who wants to change the filibuster rule. I think it is important that we have a filibuster rule and that political minorities in the Senate are respected and that their rights are respected.

However, I think this practice of indiscriminately blocking nominations serves no legitimate purpose. I don't see the time created by the delay being used to meet with the nominee, to check the nominee's credentials, or to review the nominee's scholarship, speeches, or written opinion. This is delay for delay's sake.

Of the 27 district court nominees confirmed during this Congress, only 1 has received a "no" vote so far, and even she was confirmed by a vote of 96 to 1. Not a single member of the minority objected to 26 out of the 27 of these nominees. Yet someone forced them to wait for weeks or months for an up-or-down vote.

The minority may say this is simply the way things are done in the Senate, but that demonstrably is not the case. As this chart shows, during the first Congress of the Bush administration, President Bush's district court nominees waited for an average of 25 days to be confirmed after being favorably reported out of the Judiciary Committee. This pace was set when Democrats were in the majority party for most of the 107th Congress and reflects a willingness to cooperate with President Bush in a bipartisan manner.

In contrast, President Obama's district court nominees have been pending for 74 days, on average, after being favorably reported out of committee. This wait only seems to be getting longer. Sharon Coleman of the Northern District of Illinois, the only judicial nominee to be confirmed so far this month, waited almost 3 months to be confirmed 86 to 0.

This is unacceptable. These nominees are good men and women who have agreed to put their lives on hold and submit to the scrutiny of the Senate in order to serve our Nation. This body owes more to these nominees for their sacrifices than to use them as instruments of delay and obstruction. As long as the minority continues to stall these nominees, then the American people will be deprived of the fair and efficient administration of justice. We now have nearly 100 judicial vacancies and more than 40 of them have been de-

clared judicial emergencies. One of these emergencies is located in the district of Delaware.

After tomorrow, the district will be operating at half capacity with only two out of four district judges confirmed to the bench. With this concern in mind, I join with my senior Senator, TOM CARPER, and urge my colleagues to agree to consider the nomination of Leonard P. Stark to the district court of the district of Delaware without delay.

Judge Stark was nominated on March 17 of this year. He received a nominations hearing on April 22, and the Judiciary Committee reported him out by a unanimous vote on May 14. Ranking Member SESSIONS has called him "a fine nominee" whom he would support. As of today, no Senator has raised any public objection to his nomination. So I am confident that Judge Stark will be confirmed by an overwhelming margin, perhaps unanimously, when he receives a final vote. However, he has remained on the Senate Executive Calendar for 2½ months now without justification or explanation.

Judge Stark has all the qualities required to be a successful district judge. Since 2007, he has dutifully served the district of Delaware as a magistrate judge and previously spent 5 years serving in the district as an assistant U.S. attorney. In his career, he has established himself as a talented, dedicated, and humble public servant who possesses a strong work ethic and the highest integrity and intellect.

He also has stellar academic credentials. He is a summa cum laude graduate of the University of Delaware, a Rhodes Scholar, and a graduate of Yale Law School, where he was editor of the Law Journal.

Following law school, he clerked for Judge Walter K. Stapleton of the U.S. Court of Appeals for the Third Circuit. Through his experiences in private practice, as an assistant U.S. Attorney, and as a magistrate judge, Leonard Stark has developed the knowledge, skills, and temperament to be an outstanding district court judge.

Therefore, I support the unanimous consent request about to be made by my colleague from Colorado to move to the consideration of several well-qualified judges whose nominations have been delayed. I know Judge Stark will be on that list.

I yield for the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. UDALL of Colorado. Mr. President, I believe over the last hour and a half the Senate has heard from almost one-tenth of the body. Nine Senators have come to the floor to talk about a litany of great nominees for district court positions all over our country. The viewers have heard and our colleagues have heard the importance of passing these nominees through the process so we can deliver justice to our

citizens in all the ways that our courts operate. In that spirit, therefore, I have a series of unanimous consent requests that I wish to make at this time.

UNANIMOUS-CONSENT REQUESTS—EXECUTIVE
CALENDAR

Mr. President, as in executive session, I ask unanimous consent that at a time to be determined by the majority leader, following consultation with the Republican leader, the Senate proceed to executive session to consider the following nomination on the Executive Calendar: Calendar No. 813, William Martinez, to be a U.S. district court judge for the district of Colorado; that the nomination be debated for up to 3 hours with time equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that upon the use or yielding back of time, the Senate proceed to a vote on the confirmation of the nomination; that upon confirmation, the motion to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Reserving the right to object, and I will object, I wish to express a few thoughts before my colleagues who are here and who wish to speak on another subject. I wish to be heard on the nomination process and maybe I can be recognized after I make that objection. Hoping to be so recognized, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, it is disappointing that we can't get unanimous consent for an up-or-down vote on the Martinez vote. I wish to make clear to all the Coloradans who watched the proceedings today that I attempted to bring up this nomination for a vote, along with my colleague, Senator BENNET, but the minority party, as you have heard, has objected. It is a shame. I will not give up. I will continue to work in every way possible with colleagues on both sides of the aisle to confirm this important and impressive list of nominees.

I shared Bill Martinez's story earlier with the full Senate. It is a quintessential American story, and Bill Martinez deserves to serve on our district court in Colorado.

Mr. President, let me move to this unanimous consent request: I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations on the Executive Calendar: No. 656, Albert Diaz, U.S. circuit judge for the Fourth Circuit, and No. 657, James Wynn, to be a U.S. circuit judge for the Fourth Circuit; that the nominations be confirmed en bloc, and the motions to reconsider be laid upon the table en bloc; that upon confirmation, the President be immediately notified of the Senate's action, and the Senate then resume legislation.

Before the Chair rules, let me indicate that the Diaz nomination was reported on a 19-to-0 vote. The Wynn nomination was reported with a vote of 18 to 1.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations on the Executive Calendar:

No. 696, Louis Butler, to be a U.S. District Judge for the Western District of Wisconsin; No. 697, Edward Chen, to be a U.S. District Judge for the Northern District of California; No. 703, Benita Pearson, to be a U.S. District Judge for the Northern District of Ohio; No. 948, John J. McConnell, to be a U.S. District Judge for the District of Rhode Island; that the nominations be debated concurrently for a total of 4 hours, with the time equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that upon the use or yielding back of time, the Senate then proceed to vote on confirmation of the nominations in the order listed; that upon confirmation, the motion to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, I will continue to ask my friend from Alabama to consider joining with me in approving these unanimous consent requests.

I ask unanimous consent that the Senate proceed to executive session and consider en bloc the following nominations on the Executive Calendar:

No. 883, Michelle Childs, to be a U.S. District Judge, South Carolina; No. 884, Richard Gergel, to be a U.S. District Judge, South Carolina; No. 885, Catherine Eagles, to be a U.S. District Judge, Middle District of North Carolina; No. 886, Kimberly Mueller, Eastern District of California; No. 893, Leonard Stark, to be a U.S. District Judge, District of Delaware; No. 917, John Gibney, to be a U.S. District Judge for the Eastern District of Virginia; No. 935, James Bredar, to be a U.S. District Judge, District of Maryland; No. 936, Ellen Hollander, to be a U.S. District Judge, District of Maryland; No. 937, Susan Nelson, to be a U.S. District Judge, District of Minnesota; that the nominations be confirmed en bloc and the motions to reconsider be considered made and laid upon the table en bloc; that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

Before the Chair entertains the request, let me indicate that all of the above nominees were reported unanimously or on a voice vote in the Judiciary Committee.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I appreciate my colleague from Colorado raising these issues. The Senate does have a responsibility to treat nominees fairly. I have worked to do that as ranking member of the Judiciary Committee, and they are entitled to be considered on the floor.

But things don't always go as smoothly as you would like. I will make a couple of points that are very important.

President Obama's nominees are moving considerably faster—to both circuit and district courts—than President Bush's nominees, many of whom were subjected to incredibly unjustified actions to obstruct their nominations. My good friend, the Senator from Delaware, says we should use the Golden Rule. I would say that is always a good policy. I am pleased that nominees are moving faster than President Bush's nominees were moved. But if we ask for parity, consistency, and if we ask for fairness, based on what was done to President Bush's nominees, they would be held considerably longer, and a lot of nominees would never even get a hearing, and they would wait for years.

I want to mention a few facts about these matters. President Obama's circuit court nominees have waited for a hearing only 59 days, on average. President Bush's nominees waited, on average, 176 days to even have a hearing in the committee. Actually that was in his first Congress, and the Republicans had a majority at that time. But they had to wait 247 days to get a hearing for his entire Presidency. Whereas, we are now having hearings in the Judiciary Committee in 59 days. We had one yesterday, 14 days after the nomination of a district court nominee. That doesn't sound like a railroad to me. President Obama's district court nominees have waited for hearings only 45 days, on average, while President Bush's district court nominees waited 120 days for hearings in the committee. So they come out of committee at an unprecedented rate. That is all right; we will deal with that. But sometimes we have to ask ourselves, how fast should you move a nominee to the floor? Should you have some time that the nominee lays over?

Let us talk about the time from nomination to confirmation. I guess that is the ultimate test. How long do you wait between the time a person is nominated until the time they are confirmed? President Bush's circuit court

nominees, on average, waited 350 days from nomination to confirmation. By contrast, President Obama's circuit court nominees, on average, are being confirmed almost twice as fast, in 208 days.

Similarly, President Bush's district court nominees, on average—people have said somehow this is unusual, the way President Obama's nominees are being treated—waited 178 days from nomination to confirmation. By contrast, President Obama's district court nominees, on average, are being processed almost 2 months faster, about 130 days.

I think it is important to look at other processes that cause disturbances in the Senate. It should not go unnoted that President Obama bypassed the Senate and recess-appointed Donald Berwick as Administrator of the Centers for Medicare and Medicaid Services less than 3 months after his nomination, and without even a Senate Finance Committee hearing taking place. He was very controversial.

The reasoning offered was that the Republicans are blocking this appointment and that he has to go forward. Without even having a hearing? That is particularly odd, since that position was vacant for 16 months before we even had a nomination and hasn't had a confirmed Administrator since 2006, and now they want to move it through with a recess appointment, bypassing the confirmation process entirely, without even having a hearing in the Finance Committee.

I have to note that the President has been slow to nominate. There are now 100 vacancies in our courts—20 in the circuit courts and 80 in the district courts—but only 48 nominations are before the Senate. So the President has been a bit slow, perhaps, in making his nominations. But he should take care; they don't have to be rushed. The Republic won't collapse if there is a vacancy for a reasonable period of time. But one reason the confirmations are as they are is because nominations are not being submitted in a rapid way.

Look at the fourth circuit. A lot of complaints have been made about the fourth circuit. This is stunning to me. You know the old story about the man who killed his parents and then complained that he was an orphan. One Bush nominee—a highly qualified nominee—for the fourth circuit waited 585 days and never got a hearing. He was rated by the American Bar Association as “unanimously well qualified.” He was a presiding judge in the district court on which he served. He had served in the Department of Justice. He had been point guard on the Clemson basketball team in the ACC. I always thought that clearly meant he knew how to make decisions if he could be a point guard at Clemson and dish out the ball. He was also asked—out of the entire United States of America—by Janet Reno to investigate President Clinton. She had so much confidence in him, she picked him. He didn't indict

the President. You would think they would be appreciative of that. No, they blocked him. He never got a hearing.

When President Bush left office, there were five vacancies on the fourth circuit. What an outrage. They were systematically blocked by the Senate and the Democrats, who are now complaining so piously, and since that time, two have been filled. Now they are complaining that some other vacancies haven't been filled. Give me a break.

Look, the nominations are moving rapidly out of the Judiciary Committee. They are coming on the floor. When they get here, they get caught up in all kinds of messes. The leaders on both sides have to talk and they have to work out floor time. Some of these nominees are going to have some debate about them. You have heard a number of names mentioned. I point out to my friend from Colorado that Mr. Martinez had a lot of “no” votes. He was a top lawyer with the ACLU in Colorado. He doesn't seem to me to be the most mainstream nominee.

The American people are very tired of judges who get on the bench, with lifetime appointments, and start advancing all kinds of agendas and legislate from the bench. They expect this Congress to make sure that whoever gets nominated will show restraint and will follow the law, and follow their oath to serve under the Constitution and not above it. So he is a controversial nomination.

Mr. Butler from Wisconsin—I know he is controversial. Mr. Butler has twice run for the Supreme Court of Wisconsin and twice lost. He ran in 2000 and lost by a 2 to 1 margin. He was appointed to a vacancy on that court in 2004, and then ran for election when term of the vacancy ended. Those kinds of elections are normally won easily. He lost that, because his reputation was that of one of the most pro-plaintiff judges in the United States.

This is a serious concern when we appoint somebody on the bench with a lifetime appointment and he can't be voted out of office. Others have problems. Some of them are due to come up and be voted on for sure. It just takes time. I am not able to make the decisions that the leaders of our two parties make. They try to work out matters here. Some judges come forward and some don't. I have kind of quit worrying about who gets picked and who doesn't. That is above my pay grade.

I will say that, at least with regard to any fair analysis of the numbers, the Obama administration judges are moving faster than the Bush administration judges moved. There is a growing concern about the philosophy that President Obama has about judges. He said that when he looks for a judge, he wants to know if they have empathy. Empathy for who? Which party does he have empathy for? He wants a judge who will be willing to help advance “a broader vision for what America should

be.” I am not aware that judges need to be promoting visions. Whose vision? My vision, or the judge's vision, or President Obama's vision? Whose vision is the judge going to promote? Who is he going to have empathy for? This party or that party?

The oath a judge takes is that they will do equal justice to the poor and the rich, and they will serve impartially. I believe Chief Justice Roberts' metaphor that a judge should be a neutral umpire is a simple and beautiful way to say what a judge should be. That doesn't mean he takes sides in a lawsuit because he has more empathy for one party than the other.

We have a serious problem. This is the definition of activism. It politicizes the court. These kinds of empathies and other matters are not law; they are politics. We do not need politics in the court.

Some of these nominations are controversial and are going to take some time to move forward. We are not a rubberstamp over here. We do not intend to stand by and have this court packed with nominees who are not absolutely committed to following the law as written whether or not they like it.

The Constitution says in its Preamble: “We . . . do ordain and establish this Constitution for the United States of America,” not some constitution a judge who got appointed last week thinks it ought to be but the one that actually was passed. Otherwise, we do not have law in this country.

We have a great heritage of law. We have a responsibility to move nominations. I made a commitment to the President, to Chairman LEAHY, to my colleagues on both sides of the aisle that to the extent I am able to do so, we are going to treat nominees fairly. We are not going to misrepresent their records. Certain nominees are going to be moved forward. I expect I will vote for over 90 percent of the nominees, giving deference to President Obama. Some of them I may be worried about, but I am not certain they are not going to be faithful to the law. I am going to give the President deference, and I am going to vote for them. If I do have objections, I am going to raise those objections. I believe the American people expect this Senate to scrutinize a nominee to make sure they will be faithful to the law and follow it whether or not they like it.

My colleagues know a lot of these nominees. They care about them. It does seem like a long time. Perhaps we ought to get together, I say to Senator UDALL, in a “do unto others” situation and see whether we can figure a way to be more effective in moving nominations as a whole and not have it change if Republicans were to elect a President next time.

How we really got into the controversy—and I will conclude with this—was President Clinton had almost 95, 98 percent of his nominees confirmed. When President Bush got elected, Democratic Senators—Senator

UDALL was not here then—met in a retreat. This is according to a New York Times article. Appearing at the retreat were Marcia Greenberger, Laurence Tribe, and Cass Sunstein—three very aggressive, liberal lawyers who believe that judges should be activists to promote the law, advance the law in a certain way. The report was that agreement had been reached to change the ground rules of confirmations.

That is exactly what happened. President Bush nominated eight judges. He nominated Roger Gregory, an African American who had been nominated by President Clinton but was not confirmed before President Clinton left office, as a gesture of good faith. He nominated another Democrat, I think out of his 8 or 10, within a few months. Those were promptly confirmed. The rest of them waited months and years. Some never got confirmed. A filibuster took place that we had never seen before. We even had Justice Sam Alito filibustered by the Senate, one of the most fabulous nominees we have seen and who is doing a great job on the Supreme Court. All of this never happened before. It was quite a change. We are having more difficulties now than we probably should have.

I say to Senator UDALL, I appreciate his commitment to the nominees he knows and respects and would like to see confirmed. I am sorry they have not been brought up as quickly as he would like. When they get out of committee, it basically becomes a leadership matter. They have a lot of issues on the agenda, and frequently good nominees can get tied up in them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. UDALL of Colorado. Mr. President, I listened intently to my friend from Alabama. I have had the opportunity when I have presided to listen to him share his point of view with the Senate. As always, he is articulate and passionate.

Before I make two unanimous consent requests, I wish to make some brief remarks. I see a number of colleagues on the Senate floor.

I heard the comments about the time in which the Judiciary Committee is considering these nominees. And there are numbers and there are numbers, but the number that stands out to me, as I mentioned earlier, is we have 100 judicial vacancies, which the Senator from Alabama acknowledged. Forty-two of those are considered judicial emergencies by the bodies that oversee and monitor the judiciary. The Senate has confirmed 24 nominees so far this year and 36 total since President Obama was elected. Those are historic lows. That is the fewest number of judges confirmed in 50 years. We may have accelerated the process by which nominees are considered, but we have not accelerated the process by which they are confirmed so they can serve on a circuit court or a district court.

The Senator talked about a nominee who was in limbo for 8 years, and I heard the passion with which he thinks that was a wrong. But two wrongs do not make a right. We need to get our courts fully staffed with jurists who want to serve.

I heard piety mentioned. The eight of my colleagues who came to talk about filling the district and circuit courts—I did not hear a lot of piety; I heard a need and a desire to fill the courts so citizens' rights can be maintained and justice can be delivered, whether it is in criminal or civil settings.

Finally, with all due respect to my friend from Alabama, I will wait until we hopefully have a debate on the floor about Bill Martinez to tell all the 99 Senators what a marvelous candidate he is and what a strong member of the bench he would be. We will set that debate aside until I hope, I say to Senator SESSIONS, we actually can discuss the Bill Martinez confirmation on the floor.

UNANIMOUS CONSENT REQUESTS—EXECUTIVE CALENDAR

In that spirit, I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations on the Executive Calendar: No. 891, Goodwin Liu, to be a U.S. circuit judge for the Ninth Circuit; and No. 933, Robert Chatigny, to be a U.S. circuit judge for the Second Circuit. I ask unanimous consent that those nominations be debated concurrently for a total of 4 hours, with the time equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that upon use or yielding back of time, the Senate then proceed to vote on the confirmation of the nominations in the order listed; that upon confirmation, the motions to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Reserving the right to object, I do say to my colleague, perhaps we should, in the spirit of harmony, work together and see if we can get a commitment that will be binding, not just for this Congress but perhaps one in the future, that would do a little better job than we have done in moving nominations. I do think there is room for criticism and we could do better. And I feel a responsibility, I say to Senator UDALL, to work with good people on the other side to try to do that.

With regard to these two nominees, Mr. Chatigny is a controversial nominee. He stayed the execution of a serial murderer, and, among other things he did, he found that sexual sadism was a mitigating factor that would mitigate against him receiving the death penalty after he had been duly convicted and sentenced by a Connecticut jury.

Mr. Liu is probably the most controversial activist nominee before the Senate. He has written that people

have a constitutional right to welfare. He would be very controversial.

I say with regard to those two, when they are brought up, Majority Leader REID will have to be sure there is considerable time available so the debate can be effective.

For those reasons, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. The concerns of the Senator from Alabama are his, and they are most likely shared by others. The point I am trying to make is, let's bring nominees to the floor, have that debate, fully consider their records, and then have an up-or-down vote.

Mr. President, moving to my last unanimous consent request, I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations on the Executive Calendar: No. 892, Raymond Lohier, to be U.S. circuit judge for the Second Circuit of New York; and No. 934, Scott Matheson, to be U.S. circuit judge for the Tenth Circuit; that the nominations be debated concurrently for a total of 4 hours, with the time equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that upon the use or yielding back of time, the Senate then proceed to vote on confirmation of the nominations in the order listed; that upon confirmation, the motions to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. UDALL of Colorado. Mr. President, I look forward to working with the Senator from Alabama and the Senator from Vermont to move all of these worthy nominations to the floor. I appreciate the conversation we have had.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The small business bill is pending, H.R. 5297.

Mr. DODD. Mr. President, I ask unanimous consent that I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO BEN WEINGROD

Mr. DODD. Mr. President, I wish to make note of the fact that a young man who has worked with me for 3 years in this body and who is present on the floor today will be leaving to go to graduate school.

I thank Ben Weingrod for his tremendous service to the Senate. Maybe this will be his last opportunity to be a

staff member in a floor proceeding. I express my gratitude to him for his service to our country and as a member of our staff over the past 3 years. I thank him very much.

FREE-TRADE AGREEMENTS

I rise today to talk about the importance of our relationship with Latin America and the role that free trade plays in those relationships. In particular, I wish to emphasize the need for action, in my view, by the Congress to implement free-trade agreements signed with the nations of Colombia and Panama. President Obama described the importance of these agreements in his State of the Union Address earlier this year. I know the President and the U.S. Trade Representative are currently working on the remaining details, and it is my hope that the President will soon submit legislation to the Congress to implement these agreements.

While the recession has been a challenge to economies across the globe, it also has given us the opportunity to soberly reevaluate our global relationships and look to build stronger partnerships in places we may have overlooked in the past. The most logical place, in my view, to start that review is Latin America.

For too long, American policy has treated Latin America as our backyard, and our policies toward the region have run the spectrum from shortsighted and unsophisticated to arrogant and paternalistic. The narrative of our relationship has been based on the negative, often ignoring and glossing over the important economic, political, and social advances that have been made in the region. The truth is that Latin America is not our backyard at all but part of our common neighborhood. We share far more than a hemisphere with our neighbors in this region. We share a common history, common goals, common opportunities, and a common future.

From my time as a Peace Corps volunteer in the Dominican Republic to my current chairmanship of the Western Hemisphere Subcommittee in the Senate, I have had the opportunity to watch this region change dramatically over almost the last half century. Thinking back over the past three decades of my service in the Senate, the progress in many ways has been astounding, and it is time our regional policies reflected these changes.

Embracing these free-trade agreements is an important first step to achieve these goals. They will help to cement our regional partnerships and make important strides in shifting the story of the United States and Latin America from conflict to engagement, from division to empowerment.

I had the opportunity to visit almost every one of these countries in the region over the last 6 or 7 months and have seen these changes firsthand. In my conversations with numerous leaders and citizens, I have come to see not just problems and conflicts but, rather,

remarkable, positive changes and opportunities.

Panama, for example, has been a critically important strategic and commercial partner of the United States. The United States, in fact, helped Panama gain its independence, and in 1914, the construction of the Panama Canal, as my colleagues will certainly recall, was completed.

Since that time, Panama has developed into an advanced economy based on professional-level services and is currently a destination of \$4.4 billion worth of American goods. Despite its small size—3.4 million people, smaller than the population of my State of Connecticut—Panama rates in the top 50 of our trading partners globally.

Panama has also made important strides in building democratic institutions. Over the last 20 years, five civilian governments have been elected. With each new election, its commitment to human rights and respect for the rule of law has grown stronger. Challenges, obviously, still remain, particularly in the areas of human trafficking, violence against women, and increasing transparency in the banking and financial sectors. But Panama has made progress—great progress—and I am confident that the Martinelli government is committed to continuing this trend and to implementing solutions.

Mr. President, Panama is focused on becoming a financial and economic hub in Latin America. Passing the Panama Free Trade Act would give American businesses access to Panamanian markets. Today, tariffs and barriers remain on all goods and services sold in that country. By eliminating those barriers and tariffs on the overwhelming majority of goods and services, we could increase tremendously the job opportunities not only in my State but others around the country, and it would allow us to take advantage of the economic dynamism occurring in that country.

It is estimated upon implementation of a free-trade agreement with Panama, nearly 88 percent of U.S. commercial and industrial exports to Panama would become duty free, and Panama would be required to phase out tariffs on over 60 percent of all U.S. agricultural exports. This would lead to more U.S. exports to Panama and more jobs at home in the United States. This is good news for American workers, for farmers, and for small businesses and consumers alike.

Yet strengthening our partnership with Panama is not the only opportunity for increasing our engagement in Latin America. Our pending agreement with Colombia presents, as well, a chance to move forward in our renewed commitment to engagement and empowerment in Latin America. I believe this will have significant positive benefits over time.

Colombia has weathered a civil war that has lasted longer than most Colombians have been alive. Fueled by

narcotrafficking, this war has claimed the lives of thousands of innocent Colombians, from farmers and shopkeepers to judges, elected officials, candidates, and community leaders, and has left countless more homeless in that country.

In fact, there are nearly 3 million internally displaced persons living within the country of Colombia today. Colombia still must improve its human rights protections and strengthen its commitment to the rule of law, but great changes have occurred on the positive side.

I understand why, of course, some may question moving forward with this agreement. I firmly agree we must not ignore these very real challenges in Colombia. But I also recognize that tremendous progress has been made in Colombia. I recently spent time there, as I did in the neighboring Andean countries, and the common belief is that great steps have been made in moving in the right direction. Mechanisms are in place today that will strengthen the rule of law, protect human rights, and Colombia recently held, as we all know, its most free and open election in decades.

In just 1 weeks' time, Colombia will mark a historic, dramatic transition to power from President Uribe to President-elect Santos. This peaceful democratic transition is an important marker in Colombia's history, and the President-elect has committed himself to strengthening Colombia's judicial system and working to reduce violence against labor leaders and others.

The Colombian people have pursued a fresh start, and we must recognize this and be willing to do the same. By passing the Colombia Free Trade Agreement, we have a historic opportunity to do just that.

This agreement, with its strong commitment to labor standards, environmental protections, and human rights will help shape Colombia's course to encourage its move toward a more open and democratic system and to build a relationship based on common values and not common enemies. This is an important opportunity that continues on the heels of the nearly 10 years of U.S. support for Colombia, including billions of dollars in aid through Plan Colombia.

Allowing this agreement to continue to languish now poses a significant roadblock, in my view, to continued reform in Colombia because it calls into question our Nation's commitment to a sincere and ever more important partnership. We need to act now, in my view, to affirm our commitment to the Colombian people, to show them that we recognize the hard work they have done and to signal that the United States will be a strong partner in their continued improvement.

Over the course of my career in the Senate, we have considered a number of trade agreements. I have evaluated each one, as I know my colleagues have, on its merits. Some I have supported strongly, and many others I

have opposed just as strongly, including ones for Latin America. A poor free-trade agreement can undermine very important protections for workers, human rights, and the environment. So I opposed the Central American Free Trade Agreement much to my pain and disappointment. But that was a weak agreement which did not deserve the support of this body.

These two agreements are different because since May 10 we have strengthened those labor protections, environmental protections, and human rights protections. I believe this agreement is deserving of our support. In the case of these two agreements, they are a commitment to our allies, and a signal to our friends that we value our partnerships and will continue to work with them to promote our shared values of democracy, the rule of law, and economic opportunity. As such, what they represent is much more significant than simply the exchange of goods and services between nations.

Trade agreements such as the ones before us represent opportunities to build long-lasting partnerships as well. I believe that is the case with the Panamanian and Colombian agreements before us. With the inclusion of the provisions of the bipartisan May 10 agreement on labor, environmental, and human rights standards, I believe we have addressed some of the most significant concerns about these two trade agreements. I also believe that because these trade deals and agreements have languished for so long, they have turned some opportunities into roadblocks to the success of our bilateral and regional relationships. It simply makes no sense to continue the delay. It is time to pass these two trade agreements in order to help move our economy forward as well.

Passage of these agreements is not just a good foreign policy decision; they also make strong economic sense as well. Currently, goods from Colombia and Panama flow north largely unhindered. Yet American businesses and American workers and the jobs, products, and services we provide are subject to significant duties and tariffs when we export goods to the nations of Panama and Colombia.

For example, while the vast majority of goods from Colombia enter the United States duty free, American goods exported to Colombia face average duties of 12 percent and, in some cases, as high as 20 percent. This is costing America jobs and American business. If we implement this agreement, we would eliminate many—as I mentioned earlier, almost 90 percent—of these duties and tariffs on these services and products nationwide, and U.S. exports to Colombia would increase, we are told, by a projected \$1 billion annually.

In 2009, more than \$14 billion worth of goods were exported by Connecticut firms to markets all over the world. According to the latest available data from my State—the Department of

Economic and Community Development—Connecticut firms exported about \$91 million worth of goods to Colombia and roughly \$15 million of goods to Panama. Connecticut businesses export a variety of products to these nations, particularly chemical products, manufactured machinery, transportation equipment, computers, electronic products, and paper goods.

Under the Colombia Free Trade Agreement, 80 percent of all consumer and industrial goods, which include the categories I just listed, become duty free immediately. In addition, 88 percent would become immediately duty free once the Panama agreement is ratified as well.

What can this mean for the future? Well, certainly jobs. The International Trade Administration calculates that nearly one-third of all manufacturing workers in my State depend on exports for their jobs, and more than 4,000 companies engage in exporting some kind of products to these nations. Of those firms, 89 percent were small or medium-sized businesses—precisely the firms that President Obama's Export Initiative targets—that will be well positioned to take advantage of these agreements once they are ratified. This means expanded economic opportunities for workers in our own country and businesses in our various States across the Nation.

The Panama and Colombia Free Trade Agreements were established over 2 years ago. They have been the subject of intense scrutiny and public debate. They have benefitted by the input of the Congress, through the historic May 10 agreement, which I described earlier, that saw the inclusion of binding, enforceable, and meaningful labor, public health, and environmental standards. These discussions have allowed the Congress and the American people to critically examine the importance of these trade agreements and our partnerships with these key allies.

I urge support of these trade agreements before us not in spite of our current economic situation but because of it. This recession demands bold moves and innovation. It requires us to strengthen our key economic partnerships and to expand into new markets where we can. Now is not the time to close our borders to nations with whom we already have strong ties. History shows that erecting barriers to trade has the potential for deepening the global recession. Conversely, these agreements mean more economic opportunities for American workers and our families.

It is time for us to change the way we relate to the world, particularly in Latin America. For too long we have used our differences in this region with our allies as an excuse not to act, as a reason to disengage. These agreements offer us a chance to refresh that paradigm, to make the United States a proactive partner in fostering economic opportunity by bringing us clos-

er together and promoting our shared values.

It is time, in my view, for the United States of America to lead a global economic recovery. A small but important step down that road is the passage of the Panamanian and Colombian Free Trade Agreements, and I urge my colleagues, both Democrats and Republicans, to support these agreements. I hope we can do so before we adjourn this session of Congress.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

EDUCATION REFORM

Mr. ALEXANDER. Mr. President, the President of the United States made an important speech this morning. He spoke to the National Urban League Centennial Conference on Education.

Every speech a President makes is important, but this speech is especially important, and I commend the President for his courage, for his vision, and for his willingness to undertake the hard work of helping children across this country learn what they need to know and be able to do, and the competence with which he is doing that.

Let me be specific about why I say that. No. 1, the President began with teachers. He extolled teachers. He said he wanted to lift them up as high as he could, he wanted them to be on the front pages of magazines, and for us to dignify them in every way we could. But he didn't back away from tackling the most important and the most difficult challenge that any of us who have dealt with education reform have found; that is, how do we reward outstanding teachers. Especially, how do we tie that reward to student achievement? In other words, what can we do to help reward and encourage those outstanding men and women who help our children learn, particularly our children who are having the hardest time learning?

All of us know a great teacher makes a great difference. The President said that himself. Each of us in the Senate knows that. But any of us who have, over the last several years, spent time trying to find ways to reward outstanding teaching knows how hard it is.

I worked on it in 1983 when Tennessee became the first State to reward outstanding teaching. Not one State at that time paid one teacher one penny more for being a good teacher. They could make more money for being around a long time. They could make more money for getting a degree. But they didn't make more money at all if the children were succeeding.

For a while that worked because we were able to capture women. They had very few options and they became saints in the classroom and they were our teachers. But in the 1970s, the 1980s, and the 1990s, women had many options, and they took them. In the companies where they went to work, they were paid more for excellence. They made good salaries. As a result, it

became more difficult to attract and keep outstanding men and women in our classrooms.

Governor Graham, who was later a Senator, tried the same thing in Florida. Governor Clinton—later a President—was trying many of the same ideas in Arkansas. Those were the 1980s. Every education meeting I go to comes down to the same point: After you get past the role of the parent, the teacher is the center of it. Whether a child is a gifted child or whether a child comes from a home where he or she does not have breakfast, or whether a child comes from a home where he or she has never been read a book until they are 7, whether a child needs to be in school 12 hours a day or 8, on Saturdays or not, the teacher at the center of the education of that school is the indispensable product and the best and most important part of a child's ability to achieve and to learn.

What the President has done—through the Teacher Incentive Fund that he has continued to encourage, and through his leadership on the subject—deserves credit and support from all Americans. I for one am here to offer him that.

Second, he talked about charter schools. He is not the first to do that either. I remember as Education Secretary on my last week in office, in 1993, I wrote a letter to all the superintendents in America to encourage them to try charter schools. At the time they were the invention of a few Democratic liberal reformers in Minnesota. There were maybe a dozen charter schools at that moment. But charter schools were simply “start over” schools. It was simply saying to a faculty: Let's start over. What if we took off the rules and regulations and gave you the freedom to do with the children who are presented to you what they need, so if you need to start at 7 in the morning and finish at 7 in the night, do it. If you need 2-hour classes, do it. If you need 200 days a year instead of 180 days at school, do that as well. If you need to learn during Easter holidays, do that.

Who are the beneficiaries of the charter schools? When they work, the beneficiaries are most often the children who come from the most difficult circumstances.

I can point to a charter school in Memphis I visited 3 years ago where it was an Easter holiday. The children there were ninth or tenth graders. Instead of being on Easter holiday, they were studying for their advanced placement course in biology at the freshman or sophomore level. There was not any other school in Tennessee where children that age were studying advanced placement biology, especially during the Easter week break.

President Obama has done what President Bush did, what President Clinton did, what Vice President Gore did, what I have done, what many others have done, which is to say: Let's have independent public charter

schools and give teachers the freedom to do what they know how to do. The first thing is rewarding outstanding teaching. As the late Albert Shanker, the head of the American Federation of Teachers, used to say: If we can have master plumbers, we can have master teachers, and we can pay them accordingly, pay them very well, and let's have charter schools and give teachers the freedom to do what they in their own good judgment know to do.

The third thing the President talked about was high standards. That is also not a new idea but he has advanced it down the road very well. Higher standards are an indispensable part of a good education in kindergarten through the 12th grade.

The way I used to help Tennesseans learn about that was to say look at all these big new auto plants that are coming into our State. To get a job there, you have to know a lot more today than you did when your parents might have worked there, or your grandparents. You have to know algebra and statistics. You have to know English well to be able to communicate. In other words, the standards are high if we are going to compete in the world and keep our high standard of living.

While a lot of work has been done by the Governors of the country through ACHIEVE, the President has advanced the idea of common standards very well in the last 18 months, and he has done it in the right way. He has not said: Okay, I am the President; we will write it from Washington. That would have killed it—or at least I hope it would have killed it. He didn't say that. He said let's create an environment in which States can make a difference and make their own choices, and States, in surprisingly large numbers, are beginning to do that, in terms of reading and math.

The fourth area the President spoke about, and this is his own initiative, is the Race to The Top. This is infusing one of the hardest things that is possible to infuse in public education and that is excellence. We have a democratic society. We are usually interested in leveling things. If we have five things, one goes to each person.

What is hard for us to do in government, and that means public education as well, is to say let's reward excellence. Let's say to those school districts or to those States or those teachers or those others who are making the A-pluses and the A's and doing the best job, we want to incentivize you to do that. He has found a way to do that. It is a fair way. He has kept politics out of it. He has put money into it and he deserves credit for it.

Finally, he has picked a very good Secretary of Education. I said when Arne Duncan was appointed that he might be the President's best appointment. I still think that. That is not because I agree with everything Arne Duncan has recommended. In fact, I think he was completely wrong about

the student loan takeover. I think his proposal on gainful employment, which is an obscure higher education thing and a different subject, is, with all respect, a little wacky. But what I think is he is an excellent leader for education, and he has a big heart and he has worked in a bipartisan way, and he has gotten results that are as good as anybody could possibly have gotten on some of the toughest subjects facing our country.

The President and Arne Duncan deserve our applause and support for their efforts. We will have differences of opinion about how much we can spend and when we can spend it, but if the goal is to reward outstanding teaching, to create more charter schools, to help States raise standards in an environment where they are not told to do so by Washington, but create an environment to do it themselves; if the goal is to infuse excellence into public higher education by challenging States to do better, then we should be for that and we should do it together.

I think President Obama has the opportunity in public education to do what President Nixon did in China. It may be easier for a Democratic President to make these changes or to lead the country in these changes than it would be for a Republican President, just as it was easier for a Republican President in the early 1970s to cause us to have an opening to China. That is a large claim to make but I think it is an equally important goal.

About the only thing I disagreed with today in the President's speech was this. He said teachers were the most important part of a child's education. I think a parent is and I think he does, too. I think he would agree. I think parents and teachers are 90 percent of it and it starts with the parent. The reason I think he would agree with that is because he had good parents and he is a good parent and a very good example to the rest of the country.

Anyone who has read his biography, “The Audacity of Hope,” knows the story of his mother getting him up at 4 o'clock in the morning in Indonesia and teaching him math and to read and telling him: Buster, it's not any fun for me so get busy and learn, and he learned very well. His example as a good parent and good student is exactly the kind of example we need for students and parents across our country.

This is a time when we have differences of opinion on many issues. I will have some differences of opinion with the President on education, as I mentioned. But I have no lack of enthusiasm for the importance of his leadership on K-12 education, on rewarding outstanding teaching, on giving teachers the freedom to create schools in which they can use their common sense, on creating high standards, on the Race to The Top, on setting a good example as a good parent, and I thought it was important—perhaps especially for a Republican Senator who spent a number of years

working on these issues as Education Secretary and president of a university and Governor—to come to the floor and say: Good work, Mr. President. An excellent address. And on those broad issues and themes, you have my full support.

The President's remarks can be found at: <http://www.whitehouse.gov/the-press-office/remarks-president-education-reform-national-urban-league-centennial-conference>.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. BEGICH. Mr. President, I come for a few minutes on the floor. I am down here with Senator WYDEN from Oregon, and I want to talk a little bit and probably in an informal way about a piece of legislation, a bipartisan piece of legislation on tax fairness and simplification.

There is one thing I hear a lot about when I go back home and when I was running for office, when I was mayor, and serving in our city government—how do you simplify the process of taxes, making them fairer for the middle class.

For all my time prior to serving in the Senate, I have thought about these ideas and ways we can move forward. When I was mayor, we simplified the business taxes for our small businesses, making it easier and simpler, lowering their tax burden, for our residents doing the same thing.

Here I am in the Senate and I look at lots of legislation every day, as I know you do, Mr. President, and I know the Senator from Oregon does. We see all sorts of ideas created and put on the table, and one which intrigued me was the Wyden-Gregg bill, which is focused on simplifying the tax paperwork mill, I call it, that we are subjected to every single year as individuals; the mound of paper we have to fill out not only as an individual but as a small businessperson trying to go through the rules and regulations and what is a reasonable amount of taxation that we should pay; also, the complicated system in what is owed or hopefully refunded back to us because we overpaid the IRS.

As I looked at a lot of different ideas, I have to tell you this idea—as we debate here on the floor a small business plan, small business ideas—sooner or later we will debate the Bush tax cuts and what we will do with those. To me, there is a simpler solution when it comes to issues of taxation, what we are going to do lowering the tax burden on small business, lowering the tax burden on the middle class, and simplifying it. Today there are so many different things we have to worry about and focus on: multiple retirement accounts we are trying to balance, trying to figure out who is a dependent, who is not, doing our returns—how to simplify this so our life is less burdened by the IRS.

I want to first commend Senator WYDEN and Senator GREGG for their

work in multiple years pushing this issue forward, trying to figure out how we can help the middle class and the small business people of this country lower their tax burden; getting the IRS, as we would say back home in Alaska, out of our pockets. They have done a good job.

If there is no objection from the Presiding Officer, if it is OK, I will ask Senator WYDEN to join me here with couple of questions. Sometimes you look at these bills and you wonder are they too good to be true. Here we have, if I am not mistaken, not only the Heritage Foundation and some of the more conservative groups as well as the more liberal groups, the Brookings Institution and others, commenting positively about this legislation. In my year and a half here I have not seen that on anything.

We have Republicans and Democrats who are looking at it positively. We have business groups that look at it positively because it lessens their burden and allows them to reinvest in their businesses, to grow this economy. It reduces the deficit, which I know Senator WYDEN, myself, and others—like yourself, Mr. President—are concerned about—the growing deficit and the burden it may lay onto future generations.

But it also has true tax reduction, tax relief for the middle class and businesses. When you see something such as that—and, by the way, you can also do this in one page, a one-page return. When you hear those kinds of things, those claims, you are wondering, What is the catch? What does the small print say? What are you going to get hooked into and pay a pretty good price for later? We have been going through it, I have been going through it. Actually when you first introduced it before I was a Senator, I looked at this legislation when I campaigned. Here I am now in the Senate with a chance to participate, to see what we can do to accelerate this.

We are going to talk a lot about the tax extender bill and other tax issues in the future. But my view is it is time to reform the system. The system is broken. The middle class is paying higher than they should. Small businesses are burdened with incredible paperwork and increased costs. It is time that we reform the system and do something that is dramatic and makes a difference.

Today it is an honor to be down here. Senator WYDEN, I hope doesn't mind; I have extracted off of every piece of his Web site every document related to this, the research to understand it, to make sure I do not see that small print that later I might regret. So far what I have seen is small print, big print, that I do not regret and that is why a few weeks ago I cosponsored the legislation to be one of those who joined the team, to move us forward to real reform.

I know when I joined, Senator Bob Bennett from Utah also joined on—again, focused on the same issues we

are, again keeping it a bipartisan, fair, simplification of taxes.

No one likes to talk about taxes. No one loves to be around April 15. But the fact is, it does occur. So how do we make the burden less on middle-class America?

How do we make the burden less on small businesses? This bill does it. So, again, I say to the Senator from Oregon, I wish to make sure I am saying the right stuff. So maybe the Senator could comment back to me. But it does have a positive impact. Correct me if I am wrong, but I think the numbers, for example, on average for a small business, they are pretty much going to be guaranteed they are going to save at least \$5,000 in taxes and more, depending on the size of their business.

For middle-class America, they are clearly going to save. Their rates will be lower, which means their cash out of their pocket will be less to the IRS, meaning the IRS is not reaching in there, not only in your front pocket but your back pocket. They will have less capacity to do that.

Tell me, I hope I am right on this and I do not want to mislead—the public is watching—but also make sure I am correct.

Mr. WYDEN. I thank my colleague. I especially appreciate his kind words about a piece of legislation Senator GREGG and I sat for the better part of 2 years working on. I think everyone appreciates colleagues supporting their legislation. I appreciate the Senator's kind words.

I think he is right with respect to the relief, and colleagues will see that, whether it is the Heritage organization or the Brookings Institution or the various analyses that have been done by other groups. But I think it is especially important, even apart from our piece of legislation, that we get at the central question the Senator's talking about, which is, the current tax system is broken. It is broken, and we are not going to get the country where we need to go by just kind of tinkering here and tinkering there.

I wish to give a couple examples because I think the central question is, Are we going to make a break with a broken system and look forward or are we going to do what has been done year after year after year, which is to just to tinker with a broken system and cause more problems?

Here is the heart of it. What we are seeing today is that every few years there are thousands of changes in tax law. So that means all the small businesses—and you were a small business leader before you came to the Senate—all those small businesses, trying to compete in the tough global market, incredibly competitive markets, do not even have any certainty and predictability of what is ahead. They are not in a position to be able to know what the Federal Government and particularly the IRS is going to do in terms of taxes, and that drains additional chances for them to make changes in

their production, in their workplace, productivity areas. It defies common sense. So the fact that there are these thousands of changes every few years, in my view, is very antibusiness, and particularly antismall business.

Then, the second point that the Senator touched on deals with individuals. The reality is, today, the current tax system is so complicated that most Americans do not even know when a tax break has been extended to them.

The Senator and I have talked about it. It seems to me Senator BEGICH made the central point here. In the stimulus legislation, in the Recovery Act, there were \$300 billion worth of tax cuts put into that legislation—\$300 billion worth of tax cuts. If we left today and walked the streets in Anchorage or Portland or Gresham or wherever and asked people about the stimulus legislation, people would know virtually nothing about any tax incentives.

Mr. BEGICH. If I may interject.

Mr. WYDEN. Please.

Mr. BEGICH. That is actually right. One thing I thought, wow, \$300 billion tax relief, predominately for middle-class America. I thought my phone would be ringing off the hook with people saying: Wow, what a great relief. If we got 1 e-mail on this out of the 1,000 or so e-mails and phone calls we get every single week, I would be surprised.

Because, as the Senator said, it is a complicated system we have, and when we do relief, no one will even notice it. That is why I was so attracted to Senator WYDEN and Senator GREGG's proposal, because it is reform. It is changing the system for the better. It is ensuring that middle-class America, making sure small businesses benefit.

That is when I was shocked, actually. I know if I was back in the mayor's office when we did the small business relief, making sure 90-plus percent of our small businesses did not have to fill out the paperwork anymore and got relief, I heard from them because they were very appreciative because they could reinvest it. But we made it real because we reformed it, not just tinkered with it as you talk about how the past Congresses have done.

Mr. WYDEN. The other aspect of the Recovery Act, I think, that reaffirms this point with respect to the complexity is the Internal Revenue Service puts out what they call their annual "oops" list. This is the list of the 10 most common mistakes made by taxpayers when filing. The "oops" list released this past March included, for example, one of the principal credits in the Recovery Act because people simply were unable to figure out how to make it work on their 1040EZ forms. So the fact is, the Tax Code today is anything but an easy system. It is quite the opposite.

To further support the point with respect to the complexity, this year individuals and businesses are going to spend 10.6 billion hours to comply with the code. If the tax compliance sector were an industry, it would be one of

the Nation's largest, requiring a full-time effort of 3.8 million people to get done that 7.6 billion hours.

The cost of compliance is jaw-dropping, \$200 billion a year, 15 percent of all tax revenue the IRS collects each year. So the point of this is, we are at a fork in the road. We can either look to the kind of approach that a Republican President, Ronald Reagan, and a number of Democrats talked about one-quarter century ago and move in and drain the swamp, Democrats and Republicans together, taking on these special interest groups that have hijacked the Tax Code or the Congress can continue, as Senator BEGICH has said, to keep fiddling with one provision or another, making the Tax Code even more complicated, running what amounts to a full employment program for tax preparers or we can take steps that will make the code fairer and more progrowth.

I also think it is worth noting that in the last round of tinkering, 2001 and 2003, for much of that period we had stagnant economic growth. So we were not doing what the country needed in terms of fairness for the middle class, nor was the country doing what was essential in terms of promoting more high-skill, high-wage jobs.

You and I know, for example, if you take away the tax breaks for shipping jobs overseas, you can use that money to lower the cost to manufacture in this country. I see Senator CASEY. He comes from the State of Pennsylvania. He has done terrific work because I have heard him on the floor talking about the importance of manufacturing.

This is one of the issues relating to the question of tax reform. Right now there are tax breaks in the code that reward companies for closing U.S. operations and moving them overseas. Why would not Democrats and Republicans want to go to a more simple system, as Senator BEGICH is talking about? That would be in the interest of fairness for all but also one that is likely to create more good-paying manufacturing jobs in Pennsylvania and other parts of the country, by taking away the tax break for shipping the jobs overseas and use those dollars to hold down costs for manufacturing red, white, and blue here in the United States. So I am very much appreciate Senator BEGICH taking this time. He has been awfully kind with us. I appreciate the kind words about the bill and having him on it. But I especially appreciate him outlining what this problem is all about in terms of starting—with getting beyond the tinkering and the complexity to real reform that works for all Americans.

I thank my friend.

Mr. BEGICH. To the Senator from Oregon, I will close and say thank you very much. It is kind of like the Senator said, a fork in the road. It is a moment. We can continue to do business as usual, tinker with it a little bit here, a little bit there, have special in-

terests kind of run the show or we can turn it back to the American people by helping them keep more money in their pockets, helping small business keep more money in their pockets. Let them invest in the economy, as the data that I have seen around this can show, that over a 10-year spread, you will add over \$2 trillion to the GDP, based on small business reinvesting those dollars instead of the IRS grabbing them from them.

This is a positive step. I do think, I hope as our colleagues—a couple of them are on the floor and we will stop in a second so they can get their time to do their presentations. But I know and I hope other colleagues are watching and listening because this is a moment maybe in this body that we can actually do some significant reform in a bipartisan way.

I do not sit on Banking. I do not sit on Finance. Some people have asked me: Well, if you are not on those committees, why are you interested in this? Well, simply because it has a simplification of the tax return system. It lowers middle-class taxes and those on small business. That is what drives this economy. That is what we should be focused on.

So I credit these Senators for stepping up, kind of plowing the field in a way. I am a latecomer to this. But I am going to be one of those who is taking that plow and putting a high-speed engine on it so we can keep plowing more and getting more folks, hopefully, on board. So, at the end of the day, the American people can look at this Congress, Republicans and Democrats, and say: They did something that reformed the system, made it simpler in our lives, saved the middle-class taxpayer money and improved and lowered the taxes for small business.

Now the business economy is humming along and investing those dollars to grow this economy and keeping those jobs right here in the country.

So thank you for allowing us a few minutes to, hopefully, start to engage the Congress as we move into tinkering with the Tax Code, so we do something different and we reform the Tax Code for the betterment of this country.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Kansas is recognized.

AVIATION SUBSIDIZATION

Mr. BROWNBACK. Mr. President, I appreciate the discussion I was hearing. I would also like to draw attention to an issue that I think is about the most important to our Nation. We recently won a major trade case against the European Union and their subsidization of Airbus.

This is an effort by the European Union, over a period of 30 years, to buy their way into the large commercial aviation marketplace. They did so. They did so successfully. They drove out two major U.S. competitors, McDonnell-Douglas, Lockheed-Martin, drove them out completely. They do not even make those big jet airliners

anymore, and they had Boeing on the ropes.

Airbus took more than half the market share globally in the large airliner business. The U.S. Trade Representative's office, over a couple different administrations, pursued Airbus's subsidization. We just won this case, a multibillion dollar trade subsidy case that we won against the Europeans and their subsidization of Airbus, taking market share in the large commercial airliner business in an illegal fashion, illegally subsidized.

Now we will go into the damage and remedy phase. But we won the case, and it is a massive case. The reason I am raising this to my colleagues, my colleagues all know about, is a similar setting is starting in the small aircraft market, general aviation market. It is starting in the business jets, the small airplane business.

This is a U.S. homegrown business, it is centered in my State in Kansas. It is a great business. It provides connection throughout this country and increasingly throughout the world. There are 5,000 airports in the United States; only 500 of them have commercial service.

So the other 4,500, I guess you ride a bike to if you do not have a business jet or an airplane to get people there. Eighty-six percent of the passengers on those business jets or airplanes are mid-level sales, engineers. They make connections in between their various properties as the company operates. They make them much more efficient within that business.

But what is taking place today is this homegrown general aviation business in the United States that is a major exporter, recently cited by a major study by Brookings that this is a major export cluster, 40 percent export that we do in general aviation, the small business jet-airplane market is now under targeted attack by other countries to take this business away from the United States, the same way Airbus, subsidized by the European Union, took that market share away from the United States.

Instead of going after the big airliners, they are going after the small jets, the small airplanes. Several countries are lining up to do this. This is one of the major challenges facing general aviation domestically—foreign countries targeting this industry, which has high-wage, high-scale manufacturing sets of jobs. Various governments around the world are lining up and preparing programs with various means of support for their domestic aircraft industries, in research and development, sales and export financing, as well as certification of new aircraft, very similar to what took place in Airbus taking over that market share that they did.

In that situation, you had large companies fighting against a government operation, and they had, in some cases, deep enough pocketbooks to last, such as Boeing did. Lockheed-Martin,

McDonnell-Douglas did not and were driven out of the field. My great fear in this targeting of general aviation, of the smaller business aircraft market, is that they are going to have countries behind them, companies in those countries are going to push forward and they are going to take the market share away and they are going to be aggressive and it is going to happen rapidly if we do not get out in front of it and stop these other countries from doing this subsidization.

It is absolutely critical to engage this competition now, that we stop it now, that we start the investigation of foreign governments' illegal subsidization in the general aviation market now, and that we get on top of this now, before it goes on 10, 20 years, as it did with Airbus, and we drive U.S. businesses out of the field.

One country in particular I wish to draw attention to, and one company. The country in particular is Brazil. It has made a strong commitment to expanding its presence in this market, the general aviation market, through Embraer, one of Brazil's largest exporters and employers. Embraer has made it a strategic focus and publicly stated its goal in 2005 to become "a major player in the business aviation market by 2015." That was their statement in 2005, so they are 5 years away.

How have they done? After entering the business aviation market in 2002, Embraer has been involved in a massive program to develop aircraft for this market segment. They have experienced unbelievable growth and have rolled out a full product line of new jets, including the Phenom 100 and 300, the Legacy 600 and 650, and the Lineage 1000. Beyond the staggering numbers of models Embraer has introduced since 2002—in 8 years that number of product introduction—it is now responsible for around 14 percent of all global sales of business aircraft.

Again, this is a U.S. homegrown business. This business didn't exist outside of the United States before we started it many years ago. It is headquartered in my State in Wichita, the air capital of the world. What they have done since 2002 is get 14 percent of the market share from a start position, a cold start position. This is quite an unbelievable feat for a company that has only been manufacturing business aviation for a little over 7 years. That is phenomenal. It also, I suspect, was done illegally and subsidized by the government. At the same time, Embraer continues full speed ahead toward its goal of being a major player in the business aviation market.

U.S. manufacturers during this same period have had to delay or cancel new program starts due to challenging market conditions. I don't need to remind Members what has happened since 2008. It has been a horrific market condition. In my State, we have had huge job losses and sales in the business aviation field since 2008. We had a nice period going into 2007. We were up to 40

percent international sales. International sales helped us a lot because previously we sold 90, 95 percent of the market domestically, so that's a nice expansion in the international marketplace.

Since that period, 2007 moving forward, this has been a downward market. In that period, Embraer has moved up to 14 percent and introduced a whole new cross-section of planes. As someone who has seen similar signs in the past that were later proven to be the result of illegal subsidization of aircraft by the EU, this activity by Embraer and the Brazilian Government and growing market control does not seem possible without heavy and creative government support across the board. It does not seem possible to have done that in this market condition, in this atmosphere, in that short a period of time by a new startup company that hasn't been making these aircraft for more than 7 years. That was the similar sort of trajectory Airbus went on when it had heavy and creative government subsidization to go into a marketplace they had not been anywhere close to in the past. That's seven years, now 14 percent of the market share by Embraer, starting from a dead start. There is heavy illegal subsidization.

I urge the President to look into this matter through the U.S. Trade Representative's Office, the International Trade Commission, to start an investigation into what I believe is illegal subsidization. Let's get the factual setting established.

We now see what they have accomplished in this period, I believe, through illegal subsidization. We need to get the International Trade Commission and the U.S. Trade Representative's Office focused on what needs to take place; otherwise, what will happen is Embraer will continue to grow in its market presence, taking over more and more of the global and U.S. domestic market. It will drive weaker incumbents out of the field in the United States, as happened in the large aviation market. We will lose export share. It will encourage other entrants such as the Chinese to come into this marketplace, possibly the Japanese as well in subsidized ways, illegal government subsidization into this marketplace that has high-wage, high-skill manufacturing jobs that we should be doing in the United States and not allow to be stolen by foreign treasuries to other places around the world.

We have to do this and get in it before they do what Airbus and the EU did to the large market which is to drive Lockheed Martin and McDonnell Douglas out of the business. While we were sitting here saying: We think maybe there is a problem, there might be a problem, there was a huge problem, a huge illegal subsidization by the Europeans. But we didn't get on top of it until two major U.S. companies were completely driven out of the business. Let's not let this be repeated.

As my colleague from Kentucky loves to say: There is no education in the second kick of a mule. We have seen this play before. We have seen countries go after key market segments in the United States. If we are not aggressive in confronting it, it goes on until we do. I hope my colleagues will look at this. There are two actions we can take near term with the International Trade Commission, starting the investigation in this particular case with the U.S. Trade Representative's Office, starting to raise this issue, particularly with the Brazilians but also other countries. Now is the time to do it, not 5 years later after U.S. companies have been driven out of the business.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

CLEAN ENERGY JOBS

Mr. CASEY. Mr. President, I rise today to discuss a very important provision in the new Clean Energy Jobs and Oil Company Accountability Act just introduced by the majority leader which would require public disclosure of hydraulic fracturing chemicals used in natural gas drilling. The bill itself will have a number of important benefits which I will highlight before getting into the issue I rose to speak about.

This legislation will create at least 150,000 jobs and save millions of consumers up to \$500 annually. Second, it will hold BP accountable. A lot of Americans are waiting for that accountability. Third, it will reduce our dependence on foreign oil and create up to 550,000 jobs. Next, it will protect the environment by providing full funding for the Land and Water Conservation Fund over the next 5 years. Finally, the bill will protect taxpayers from any future oil spills. That is the overall bill itself.

I wish to speak about a provision included in the bill as it stands now. I thank the majority leader for his leadership on energy issues for many years but especially, as our leader, for his work on efforts to combat global warming, pollution, and certainly for his leadership in putting together this new piece of legislation. I thank him for including important language in the bill as it relates to natural gas drilling in places such as Pennsylvania.

The language in the bill amends the Emergency Planning and Community Right-to-Know Act, which was designed to help local communities protect health, safety, and the environment from chemical hazards. It would require well operators to disclose to the State and the public a list of the chemicals used in each hydraulic fracturing process, including chemical constituents but not the proprietary chemical formulas the companies are so concerned about.

This bill also includes the chemical abstract service registry numbers and material safety data sheets. If a State does not have a disclosure program in

effect, the disclosure would be made to the public itself. This provision would also require disclosure of a proprietary formula or chemical constituents to a treating physician or nurse in an emergency situation. That is a narrow exception to the general disclosure rule.

This is about something that is critically important to the people of Pennsylvania and people across the country. In order to extract the gas from the Marcellus shale which lies beneath large portions of Pennsylvania and several other States—of course, there is shale formations—the gas industry uses a process called hydraulic fracturing or, by the shorthand, fracking, as it is known colloquially, whereby about ½ million or more gallons of water, sand, and chemicals, in combination, are injected at very high pressures into underground rock formations to blast them open and increase the efficiency of the wells.

Each well must be fracked multiple times, really hit with that combination of sand, water and chemicals in order to release the natural gas from the shale. Then, of course, the gas is captured and can be used as an energy source.

The explosive growth of natural gas wells in Pennsylvania in many incidents involving some of these wells highlights the urgent need—I think that is an understatement—for disclosure of the chemicals used in hydraulic fracturing. Pennsylvanians and people across the Nation have a right to know what is being injected into the ground at thousands of sites throughout the country.

Fracking fluids are believed to contain toxic chemicals. These compounds are kept secret from the public as proprietary information. However, even low concentrations of toxic chemicals can have adverse health and environmental consequences.

We all know the history of our Nation as it relates to the extraction of a natural resource. Pennsylvania has a history as well. We have developed our natural resources to power the region and, indeed, the Nation from the first commercial oil well, the Drake well near Titusville, PA, in the 1850s, to western Pennsylvania's production of natural gas and, of course, most notably, Pennsylvania coal. We have used that coal and other sources of energy but especially coal to provide electricity throughout the State and throughout many States in the Nation. We have been a producer of a resource which has helped to light and heat the country.

Pennsylvanians are proud of that contribution. We are also proud of the way we have been able to balance the need for that resource and the benefit with what happens to our environment and our quality of life. However, before our State did the right thing in striking that balance, we did create a number of environmental legacies that we should not be proud of. Most were created in previous generations when Fed-

eral regulations that promoted responsible development did not exist. We know that history. We know it all too well. We cannot make those mistakes again in Pennsylvania or anywhere around the country when it comes to the benefit and the burden of having a resource under the ground.

Natural gas has played and will continue to play an important role in our energy portfolio as we transition to a new energy future, and we are fortunate to have domestic sources to help us meet our growing needs.

Pennsylvania will develop the natural gas in the Marcellus shale, and we should. But we should also make sure we develop the Marcellus shale using the best practices to protect our communities and our people. We have to get this right. The good news is that we have a lot of knowledge and information and research and technology and good-old American ingenuity and can-do spirit to get it right. Those old, false choices we used to debate all the time years ago—about choosing jobs over the environment, about choosing economic prosperity or great economic opportunity over quality of life and health and safety—are largely part of our history. But we have to make sure we get this right.

It is not just underground sources of drinking water. That has been my main concern when it comes to this issue. What happens to groundwater or drinking water with all of this hydraulic fracturing going on? And the EPA, of course, is in the midst of a study. But it is not just a concern I have about underground sources of water. There have been cases where this fracking fluid—again, a combination of chemicals and sand and water and millions of gallons of it in one small area, in one geographic area—that those fracking fluids have, in fact, spilled on the ground.

The language in this legislation will require that the natural gas industry provide complete disclosure of the chemical composition of hydraulic fracturing materials to ensure that if drinking water supplies, surface waters, or human health is compromised, the public and first responders will know exactly—exactly—what they are dealing with.

The intent is not to stop hydraulic fracturing, and this disclosure language is not going to stop it, despite what we have heard in the last couple of days here in Washington and around the country. I would categorize some of that language, some of that hysteria from the industry as a lot of hot air and not a lot of truth. The provision that is in this bill that relates to the fracturing process simply requires well operators to disclose what chemicals they are releasing underground in our environment. What is so problematic or troubling about that? Let me read that again: requiring well operators to disclose what chemicals they are releasing underground into our environment. That is what we are talking about.

We know companies, such as big soft drink companies, over many years—Coke and Pepsi—have put their ingredients on their soda cans without revealing their so-called secret formula. This is a lot more serious. This is lot more serious business. So for the life of me, I cannot understand—I really cannot, try as I might—why would oil and gas companies oppose this? What are they afraid of? If the chemical composition—the chemicals that are used in the process are not harmful or cannot compromise health and safety or contaminate drinking water or compromise groundwater or put the public at risk—if that is all OK, then why can't we shine the light of disclosure on it? What are they opposing here or the better question is, I guess, why? Why would they oppose this kind of disclosure?

This is very simple—not complicated, very simple. We do this in America. When we are getting it right, we disclose information to give the public the information they should have a right to expect about what is happening underneath the ground, underneath their own homes or in their communities. This is not a well every couple of miles. There are thousands of these—thousands—across Pennsylvania and a lot more across the country. In the next year, there will be thousands more just in Pennsylvania.

So I think it is a simple matter of citizens having the right to know. You have heard that expression before, that line, that commitment we have made, that value of having information—the right to know about any risks in their communities.

We have had some good news lately. One major company has already announced it will voluntarily disclose hydraulic fracturing chemicals used in each of its wells on a well-by-well basis. The chairman of the company, when they made the decision, said:

It's the right thing to do morally and ethically. . . .

Those are not my words; those are the words of the leader of Range Resources. So if companies like that are willing to provide some disclosure—now, we have to check and double-check that disclosure is equivalent to the disclosure we are talking about here, and we will do that analysis—but if he is speaking in that way and using that language, I do not know what the others are all worried about. There is a lot of worry here by the industry.

If the development of the Marcellus shale and other shale formations is carried out in a manner that fully protects the environment and human health, then I believe the economic benefits for Pennsylvania and a lot of other States can be achieved without environmental costs.

So I hope we can kind of lower the rhetoric and speak forthrightly on this issue. But I will tell you, what I have heard over the last couple, 2 days or so or over the last couple of hours is really hysteria, and I think we have to

make sure we do everything possible to get this right—have the economic benefits from this, the job creation potential, but make sure that when we are creating jobs and enlarging a new industry, we do not compromise the environment and we do not threaten health and safety.

Mr. President, with that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Ms. LANDRIEU. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. SHAHEEN). Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, I am going to speak for some time and try and reengage this debate. We had an excellent debate this morning between 9:30 and 12:30 trying to find a way forward on a very important bill, the small business bill. This is the Main Street bill we have been working on. As you know, Madam President—you are a member of the Small Business Committee—we have been working in good faith up until the last few hours. It has been a good effort on both sides. I am hoping in potentially the next few hours we can work through this because we are extremely close on a very important bill for small businesses in America and for Main Street.

I wanted to come to the floor to clarify a few things. Many people are following this debate. They heard the minority leader say that he was upset and some of the Republican Members were upset that they had not quite gotten amendments on this bill. That is a charge that needs an answer.

I want to go over, again, this bill and point out how many amendments are already included in the underlying bill that were offered by the other side, by Republican Senators.

I had in the last few hours several of my Members on the Democratic side say to me: Gee, Mary, I didn't realize there was so much in the bill and how good the bill was, but I didn't understand how many Republican provisions are in this bill.

I want to take a minute, because the minority leader has made a charge that Democrats have been heavyhanded—it does not sit well with many of us who have a fairly light glove here. I don't think anybody watching this debate over the last couple of weeks, or even as it has gone through the iterations of the past year, can say we are trying to have a heavy hand. We are trying to get a bill that is important to the 27 million small businesses closed, finished, and delivered to them.

The fact is, the longer we stay here without coming to some terms, the harder and harder that gets. As the 70 organizations that support this bill most certainly understand, there is a risk because not every bill that every

Member can think of is going to pass in this Congress, but they are going to think this is a bill that has a lot of support, which it does, and they are going to think: This bill is going to get passed, so I am going to add my amendment, I am going to add my amendment, I am going to add my amendment.

If we do not hurry up and get this done—you can kill a bill in a lot of ways. One way you can kill it is put too many amendments on it and it is too heavy to carry itself. The small businesses do not deserve that. I said 100 times on this floor, they are already carrying a heavy load. They are carrying more regulations. They are carrying a weakened economy. They are having to lay off employees, and in a small business, it is like laying off family because these businesses are having to say goodbye and hand pink slips to people they literally know well and love. It is hard to fire anyone but particularly upfront, close, and personal, like this is happening.

I want to put up one chart—the lost business chart—to make this point. I know that Members are clear, but this is according to the National Employment Reports. This is jobs lost by firm size. Small businesses, which are defined by businesses 500 or less—that is the official definition: 81 percent of the job loss has been absorbed by small businesses. They have laid off people.

When people ask the question, How do we get this recovery engaged, how do we make this recovery successful, how do we get jobs attached to the recovery as opposed to just money—we know the big businesses have money. They are sitting on it. It has been widely reported. We know Wall Street has money because they just paid \$1.8 billion in bonuses to top executives, the money we gave them. We know they have it. The people who do not have the money are the small businesses.

That is what this bill is for, to help them in many different ways, voluntarily lay out some things they can choose. This is not government telling them what to do. They can choose. They can choose to take part of the \$12 billion tax cuts we are providing them. They can file for those tax cuts. If they want to, they can get the tax cuts. They can apply for the lending program.

Eighty-one percent of the jobs are lost by small businesses. If we want jobs, I suggest we focus on small business. That is what this bill is. For a year and a half, we have been pulling this bill together.

I want to go over how many Republican provisions are in this bill. I do not want my Democratic colleagues to get upset. I am taking some risk because they could come to me and say there are more Republican proposals in this bill than Democratic proposals. But we tried to be very fair.

Again, the 7(a) loans, an increase to \$5 million, was a Landrieu-Snowe provision; small business trade export was

a Snowe-Landrieu provision; small business contracting was SNOWE and MERKLEY, CRAPO and RISCH; small business management counseling, Senator SNOWE took the lead on that amendment; Senators SNOWE and PRYOR took the lead on small business regulation relief; Senators KERRY, SNOWE, and MENENDEZ, the 100-percent exclusion. You pay no capital gains. People on that side are talking about reducing capital gains from 20 percent or 15 percent. They are arguing it should not go up to 20 percent. This is 100 percent, zero capital gains. If you invest in a small business in America, you will pay zero capital gains. Zero. This is a bipartisan amendment.

MERKLEY and LAMAR ALEXANDER, a leader on the Republican side, the increased deduction for small business expenditures; another Republican amendment, the Snowe amendment, extension of section 179; another bipartisan amendment, Senator HATCH, Senator GRASSLEY, Senator INHOFE, Senator JOHANNIS, Senator BROWNBACK. These are Republican Senators.

For the minority leader to say this bill has not had Republican input, this is the red line. I put down all of the sponsors of the amendment so that the press and the groups that are following this debate can see.

This is probably the most bipartisan bill we have taken up on this floor in the last Congress and maybe in a long time, maybe a decade.

The leader would come to the floor and say: That is in the underlying bill, Senator. What we are talking about is amendments on the floor. I will go through a few Republican amendments that were put in on the floor.

The first bill the majority leader laid down was a bill that included the lending fund. Senator SNOWE and others objected. A Republican objection was laid against that bill, so the lending fund was taken out. That was a Republican amendment. They were against the lending fund. It was taken out. We had to fight to put it back in.

Then Senators SNOWE, GRASSLEY, ENZI, ISAKSON, and COLLINS filed amendment No. 4483 which adds the SBA Recovery Act extenders to the bill. That was not in the bill. I think these are Republican Senators—Republicans SNOWE, GRASSLEY, ENZI, and ISAKSON. The last time I checked, they were Republicans. This is another amendment they got in the bill.

Then Senators THUNE, JOHANNIS, COBURN, INHOFE, and filed amendment No. 4453 to strip out the Small Business Lending Fund. That was agreed to. We have been fighting over this Small Business Lending Fund. They want to strip it out. We are putting it back in with support from two Republicans, maybe more as this debate goes on. We have two now. We won that.

Then comes the substitute, the second one, with the SBA extenders in it and the lending fund is out. That is at least two or three amendments, in addition to the underlying amendments,

that Republicans put in this bill, both in the Finance Committee and the Small Business Committee.

I hope no one tries to tell a reporter, either in Washington or back home—because reporters are smart. They need to be listening, and I think they are. I hope no reporter takes the line: Oh, well, the Democrats were heavyhanded. They offered us no amendments, so we could not possibly vote for the small business bill.

We are clear that there are many Republican amendments in the underlying bill. We have made clear in the RECORD that to get us to this point, there have been any number of Republican amendments either accepted or voted in or voted out. I have not mentioned one Democratic amendment yet.

I am thinking we are doing fine. We are not being heavyhanded. We are going right along. We have an open vote, 12-hour debate on the Small Business Lending Fund, and we win with 60 votes. It is back in the bill because it is the right thing to do.

I know some people are opposed to it, but we have 70 organizations, including the Chamber of Commerce, the National Federation of Independent Business, Small Business Majority, manufacturers, heating and air conditioning—all sorts of organizations. I submitted for the RECORD several times this long and impressive list.

In addition, we have the Community Bankers Association of Alabama, the community bankers of Georgia, the community bankers of Illinois, the community bankers of Kansas, the community bankers of Ohio, the community bankers of Iowa—I could go on and on; the Independent Bankers of America, the International Automobile Dealers. I don't know how many other groups we can have to step up and say: This is the right thing to do. The Travel Goods Association, the Tennessee Bankers Association, the Virginia Association of Community Banks, National RV Retailers Association, Nebraska Independent Community Bankers. They are for this lending program. They have been sitting on the sidelines watching us give money to big banks, bailing out Wall Street, bailing out big car manufacturers in Michigan. These small banks are sitting out there saying to us: Don't you know we are out here, 8,000 of us? We are ready to do our job, roll up our sleeves, be a partner with you, and go to work getting capital to small businesses so we can have a job-filled recovery instead of a jobless recovery. We want a job-filled recovery.

This is not about this recovery making a few fat cats richer. This is about making the middle class stronger. It is about creating jobs and hope and opportunity for the broad middle class. I do not want to be part of a recovery that does not include that. It is not worth it.

So we created a fund that works with our community bankers and we still can't get the Republican side to step to

the plate and say it is time to close this debate.

We have had a year and a half to talk and to think, and that is what the vote was this morning. Every Democrat, I am extremely proud to say, voted to say yes to Main Street. They gave a green light to go forward. Every single Republican in this Chamber voted no against Main Street this morning, which is why I am here, to try to pull up the shades here a little bit and shed some light, under the guise that they weren't given enough amendments.

If I give them any more amendments, I am going to get in trouble with the Democrats because I am the Democratic chair of the committee. I have given more amendments to the Republicans than I have given to my own side. After a while, it is hard to convince our side, and my Democratic colleagues have been so good. I have 10 Democrats who are dying to offer amendments on this bill—and some of them are relevant to the underlying bill—but they know the more time that passes the less likely it is we will get this bill passed, and they know how important it is.

I wish to say another thing about this, and hopefully the last about this amendment situation, unless the minority leader says something else—and he might this afternoon about amendments. I have in front of me, and every reporter also has this, the unanimous consent agreement from last night. Senator REID offered four amendments—Baucus, Murray, another Baucus, and then another Reid amendment. Four. Senator MCCONNELL reserved his right to object and he did object and then he offered eight. So that is where we are. We offered four, they offered eight.

You would think, in the next few hours, that somebody could figure out around here how to split this baby and do six and get it done. I am hoping that is what we can do. We are running out of options. If six is too many, maybe we could agree to have no amendments, because we already have so many, and pass this good bill that is already right here on the floor. I mean, we do have a good bill already that has Republican and Democratic amendments in it.

So the Democrats have offered four, the Republicans have offered eight. Some of them are directly germane and some are indirect. It gets a little confusing sometimes about what is direct and indirect. I am not confused about farmers, but the Senator from Kentucky said today he doesn't think farmers are small businesses. I think there are a lot of Senators who disagree with that. They do think farmers work hard, and many of them are small business owners and operate small operations. I think most people understand that those disaster payments that go to farmers don't stay in their pockets that long. They go to pay out all sorts of vendors—seed companies, to pay down their tractor or their equipment bill. I think people understand,

even though it has the title “disaster aid,” it actually is a small business issue.

I heard the majority leader say that if the Republican leader objected so much to that, even though Senator LINCOLN worked so hard to put it in, we would take that out of this bill and find another way to do that. But that didn't seem to be enough either. So I am going to say again that I am so proud of the Senators who have worked hard on this bill—Senator MERKLEY, Senator CANTWELL, Senator MURRAY, Senator BOXER, Senator SCHUMER—and Senator DURBIN has been down to the floor—both Senators from Florida. I am hoping Senator LEMIEUX will do his very best and I know he is continuing to work through the afternoon to talk with his leadership, to say: Look, there are dozens of amendments already in the bill. The only amendments that have been offered on the bill to date have been Republican amendments, either Republican amendments by Senator SNOWE to take things out or put things in or an amendment by Senator LEMIEUX to put the lending fund in, the only amendments.

The amendment Senator LINCOLN put in the bill, without a vote, we offered to take that out to try to move this forward. So I hope reporters here and around the country will not allow a Republican Senator to say they just couldn't get to the small business bill because Democrats would not let them have amendments. The question is, Do they want to get to a small business bill or do they want to just continue to support big business, big corporations, and Wall Street?

That is the question. Do they want to get to Main Street? Do they want to help Main Street? They have to show that by their votes—not just by their words but by their votes. In this business it is not words, it is actions that matter, and the only action we have is them voting no. No. I am trying to help them say yes. I know they want to say no. That is what they think they should say to America: No on this, no on that. I don't think Americans want to hear no when it comes to help for small business. I could be wrong, but I don't think I am. I think they want to hear yes.

So let's find a way. I am asking my colleagues on the other side to look at their list of amendments again and see if there is some way between the numbers of two and four and eight we can find a way to move forward to help Main Street businesses.

Just so people understand, again, this bill that is pending before the Senate—and I see the Senator from Michigan is here. I am hoping he wants to speak a minute about the provision he has. I am thinking in a minute we may have some word—I know the leadership is talking, and perhaps sometime in the next hour or so we may have something that has come together. But I hope the Members are focusing on the importance of this bill for creating jobs

in America today, and that is what people want. That is what we should have been focused on.

We have tried, in many different ways, through many different bills, but this bill has \$10 billion in tax cuts to small businesses—not to the big businesses, not to Wall Street but to small businesses. It has so many helpful provisions, through the Small Business Administration, to give small businesses the support they need.

Mr. SCHUMER. Madam President, would my colleague yield for a question?

Ms. LANDRIEU. I would be delighted to yield for a question.

Mr. SCHUMER. I would like to ask the chair of the Small Business Committee, who has done such an outstanding job here, is it not true that we have heard many different numbers and types of amendments that should be offered?

Ms. LANDRIEU. Yes, it is true.

Mr. SCHUMER. Is it not true that many of the amendments the other side wanted to offer had nothing to do with small business whatsoever?

Ms. LANDRIEU. That is true.

Mr. SCHUMER. They were not an attempt to improve, modify or help small business but were to simply get us off the subject?

Ms. LANDRIEU. That is true.

Mr. SCHUMER. Isn't it true that yesterday or a day or so ago, when we did the Citizens United bill, the minority leader was complaining that the leadership was getting off the subject of small business to go to some other subject? It would seem now, at least, that the other side is doing exactly that. Is that an unfair characterization?

Ms. LANDRIEU. That is a fair characterization.

Mr. SCHUMER. Is it not true as well that as chair of the committee, you have offered them every opportunity and all kinds of amendments and all kinds of compromises in the committee before we got to the floor and now on the floor?

Ms. LANDRIEU. That is absolutely true.

I say to the Senator, in some ways I have some trepidation of continuing to read this because I have had any number of Democrats come to me and say: But there are more Republican provisions in this bill than there are Democratic provisions in the underlying bill. That is a credit to Senator SNOWE, I have to say, who worked so hard and does such a good job. But to come to the floor, I say to the Senator from New York, that there are no Republican provisions in this bill, it is laughable.

Mr. SCHUMER. So it wouldn't seem, to me at least—and I am wondering about your opinion—to be an unfair conclusion that what is going on is not a dispute about which amendments or how many amendments, even the subjects of the amendments, but that they don't want to pass a small business bill that will help create jobs, for whatever reason.

Ms. LANDRIEU. For whatever reason, I don't know why. I think maybe they think that is good politics. But I don't believe it is, and I don't think most Americans, even Republicans, would think that is good politics.

Mr. SCHUMER. I thank my colleague.

Ms. LANDRIEU. I see the Senator from Michigan, and I yield to him.

Mr. LEVIN. I wonder, through the Chair, if I could inquire of the chairman of the Small Business Committee—unless the majority leader is seeking the floor.

I am trying to figure out exactly why it is that the Republicans, who over and over say they understand that small business is the generator of at least two-thirds of jobs and maybe more—in fact, I use a figure that all the new jobs in this country were created by small businesses—but at least two-thirds. The Republicans, I think, believe that small businesses are the creators and generators of these jobs. As I understand it, organizations that represent small business have endorsed this bill. The Senator from Louisiana has done such a great job of putting those together.

But I am trying to figure out exactly how it is that in the situation where the small business organizations—or those purporting to represent small business—have supported this bill and where Republicans say, and I think believe, that small businesses are the great generators of jobs, that we are now in a position where, despite those things being true, the Republicans are not letting us proceed to a bill supported by those organizations. Is that where we are?

Ms. LANDRIEU. That seems to be where we are. That is why I said I feel like I am “Alice in Wonderland,” because it is topsy-turvy.

Mr. LEVIN. I would hope the organizations which purport to support small business—and, by the way, the greatest complaint I get when I go home, just about, other than the general one of where are the jobs, is that credit is not available to small businesses that are creditworthy and have proven it over and over—never missed a payment, have contracts that provide services or goods—yet can't get credit.

Ms. LANDRIEU. You are absolutely correct.

Mr. LEVIN. This bill has provisions for credit to flow. The community bankers, as I understand it, are supportive of this bill.

Ms. LANDRIEU. Absolutely.

Mr. LEVIN. I would just hope that between now and the time the majority leader moves to reconsider that vote that we would hear loudly and clearly from those organizations representing community bankers, representing small businesses. Maybe they just have to say more loudly and clearly that this filibuster is wrong—wrong for Main Street, wrong for the organizations they represent, whether it is community banks or small businesses.

If the NFIB has spoken on this already, and if community bankers have spoken on this, I would hope they would speak a lot more loudly and a lot more clearly and a lot more forcefully.

This is the big job creator where I come from. I would just hope we would hear more clearly and forcefully from those organizations between now and the time the majority leader offers a motion to reconsider.

Ms. LANDRIEU. Well, through the Chair, I thank the Senator from Michigan because he is absolutely right. This is the wrong bill to filibuster. I mean, you may get political points by filibustering other issues, but to filibuster a small business bill, to filibuster a Main Street bill is not the way forward.

Again, I cannot stand here and allow any Member of the other side to say there haven't been Republican amendments that have been accepted, offered. We have done everything to the point where there are almost more Republican provisions than there are Democratic provisions in the bill, which is completely paid for and provides a \$12 billion tax cut today.

I see the majority leader, and I will yield the floor in just 30 seconds, but I wish to repeat one thing that is worth repeating. The Senator from Michigan was a cosponsor of this. For 10 years, independent entrepreneurs, sole entrepreneurs—and there are 20 million of them in America—have begged and pleaded to be on the same parity with big corporations so they could get a little bit of a break on their health insurance. This is a big issue for 20 million Americans. You know where it is? In this bill. Two billion dollars will leave the Federal Treasury and go into the pockets of every independent entrepreneur in America, and that side is standing in the way of that. I hope the reporters are following this carefully because the details are important.

I thank the Senator from Michigan, and I see the majority leader on the floor. I think he may have a word or two to say.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 4 Leg.]

Akaka	Chambliss	Harkin
Alexander	Cochran	Hatch
Barrasso	Collins	Inouye
Baucus	Conrad	Isakson
Bayh	Corker	Johanns
Begich	Cornyn	Johnson
Bennet (CO)	Crapo	Kaufman
Bennett (UT)	DeMint	Kerry
Bingaman	Dodd	Klobuchar
Bond	Dorgan	Kohl
Boxer	Durbin	Kyl
Brown (MA)	Ensign	Landrieu
Brown (OH)	Feingold	Lautenberg
Bunning	Feinstein	Leahy
Burr	Franken	LeMieux
Burris	Gillibrand	Levin
Cantwell	Goodwin	Lieberman
Cardin	Graham	Lincoln
Carper	Grassley	Lugar
Casey	Hagan	McCain

McCaskill	Risch	Tester
McConnell	Roberts	Thune
Menendez	Rockefeller	Udall (CO)
Merkley	Sanders	Udall (NM)
Mikulski	Schumer	Vitter
Murkowski	Sessions	Voinovich
Nelson (NE)	Shaheen	Warner
Nelson (FL)	Shelby	Webb
Pryor	Snowe	Whitehouse
Reed (RI)	Specter	Wicker
Reid (NV)	Stabenow	Wyden

The PRESIDING OFFICER. A quorum is not present.

Mr. REID. Madam President, I move to instruct the Sergeant at Arms to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Washington (Mrs. MURRAY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Texas (Mrs. HUTCHISON), the Senator from Wyoming (Mr. ENZI), the Senator from Oklahoma (Mr. INHOFE), the Senator from New Hampshire (Mr. GREGG), the Senator from Oklahoma (Mr. COBURN), and the Senator from Kansas (Mr. BROWNBACK).

The result was announced—yeas 70, nays 23, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—70

Akaka	Franken	Mikulski
Baucus	Gillibrand	Nelson (NE)
Bayh	Goodwin	Nelson (FL)
Begich	Grassley	Pryor
Bennet	Hagan	Reed
Bingaman	Harkin	Reid
Boxer	Hatch	Rockefeller
Brown (MA)	Inouye	Sanders
Brown (OH)	Isakson	Schumer
Burr	Johnson	Shaheen
Burris	Kaufman	Shelby
Cantwell	Kerry	Snowe
Cardin	Klobuchar	Specter
Carper	Kohl	Stabenow
Casey	Landrieu	Tester
Cochran	Lautenberg	Udall (CO)
Conrad	Leahy	Udall (NM)
Corker	Levin	Voinovich
Dodd	Lieberman	Warner
Dorgan	Lincoln	Webb
Durbin	Lugar	Whitehouse
Ensign	McCaskill	Wyden
Feingold	Menendez	
Feinstein	Merkley	

NAYS—23

Alexander	Crapo	Murkowski
Barrasso	DeMint	Risch
Bennett	Graham	Roberts
Bond	Johanns	Sessions
Bunning	Kyl	Thune
Chambliss	LeMieux	Vitter
Collins	McCain	Wicker
Cornyn	McConnell	

NOT VOTING—7

Brownback	Gregg	Murray
Coburn	Hutchison	
Enzi	Inhofe	

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader is recognized.

Mr. REID. We have before us the small business bill we have worked on so hard. As I went through the bill today, virtually every provision in this is bipartisan, except some are strictly

Republicans with no Democrats involved. It expands access to credit for small business all across America, cuts taxes for small business, and expands domestic and foreign markets for small business. This has the potential of creating hundreds of thousands of jobs. The reason for that is that most jobs in America are small business jobs. Two-thirds of the jobs lost in America have been from small business.

As I indicated today, I was disappointed that my friends on the other side of the aisle have not been willing to work with us. It seems to me the goalposts were moved often, but I have been here a while and I understand how things work.

Last week, they requested; that is, the Republicans, that we give them votes on three amendments.

We all know what they are now. GRASSLEY has an amendment dealing with biodiesel. HATCH has an amendment dealing with research and development. JOHANNIS has an amendment to repeal the corporate reporting requirement.

Earlier today, I propounded a unanimous consent request where we took out of the bill the issue relating to agricultural disaster and that we would have the three votes I mentioned and we would have Democratic amendments that would be opposite those, three in number. There was an objection. I cannot understand why they, my friends on the Republican side, cannot take yes for an answer. It tells me and I think the American public that it is more about something than getting votes. It seems they think it is more important to say no to votes on Democratic amendments than say yes to helping small business. But I understand where we are, and I am working very hard.

I have had a number of conversations with my friends on the other side of the aisle about a couple of amendments we have that we want to be voted on in opposition to the amendments offered by my friends on the other side of the aisle. A number of Republicans do not want to vote on those amendments as it relates to small business. I think that is unreasonable, but that is me. I accept their view that it is not unreasonable.

As I have talked with the Republican leader and a number of other people, I am going to try my utmost—and I think I figured a way to do that—to get the two amendments my friends did not want to vote on as relates to small business off this bill. I am going to do everything I can to do that in the near, foreseeable future.

But I say to everyone here: Let's take a little time over the next couple of days to kind of cool down. This is important. I know we have argued and scrapped, as my friend the Republican leader said, a lot of the time during this year. But let's do this legislation. This is not a victory, if we can get this done, for the Democrats. This is not a defeat for the Republicans. It is a victory for Democrats and Republicans

and Independents and the people who supply most of the jobs in America today—small businesses. That is why, if one can imagine, the chamber of commerce supports this bill. They are in favor of the Johanns amendment, and I accept that. When I was here this morning, 80 organizations supported this bill. We are now well over 100. This has gotten traction.

This is something we should do. This is good legislation. It would set a very good tone before we leave for the August recess to do this bill because by the time we come back in September, there would actually be some jobs created as a result.

I renew my request that I made this morning. I am not going to read this again. My request this morning was that we will take out the disaster relief, and they, the Republicans, can have their three amendments. We will have our three amendments. That is my request. I renew that request.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Madam President, reserving the right to object, I think we are making some real headway. I appreciate the majority leader taking out basically the appropriations measures. One was in the underlying bill and the others were going to be offered as amendments.

I had not originally intended to offer a counter UC, but in order to reassure everyone—I know there is support on our side of the aisle if we can get it right—I offer a counter UC which I suppose will be objected to, as I will object to the majority leader's, for the afternoon.

But I want to underscore what he said, which is I do think we are getting closer to getting back to the original bill which started off on a pretty strong bipartisan basis and then seemed to deteriorate over the course of the last month. In fact, we turned to the bill on June 24 and left it six times between then and now.

Having said all that, I think we are heading back in the right direction.

Madam President, I ask unanimous consent that the cloture motions with respect to the small business substitute and the bill be vitiated. I further ask unanimous consent that the following amendments be the only amendments in order to the Reid substitute, and there are four: Johanns amendment No. 1099, repeal; Hatch, R&D; Grassley, biodiesel; Sessions, spending caps. I further ask unanimous consent that it be in order for the majority to offer relevant side-by-sides limited to the subject matter of the above-listed amendments. And, as I said last night, we are prepared to enter into reasonable time agreements on each of these amendments.

Mr. REID. Reserving the right to object to my friend's proposal, I have to smile, even though I have not smiled a lot today. On the Sessions amendment, how many times do we have to vote on it? How many times? One of my friends

on the other side of the aisle said: How many times do we have to vote on what you propose to vote on? Not nearly as many times as this Sessions amendment. There has been a general agreement between the Republican leader and myself that we are going to wind up there basically anyway. I understand he has people he has to satisfy on his side of the aisle. I do my best to satisfy people over here. But I have to respectfully object.

The PRESIDING OFFICER. The majority leader has declined to accept the Republican leader's modification of his request.

Is there objection to the majority leader's request?

Mr. McCONNELL. I object.

The PRESIDING OFFICER. Objection is heard.

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT

Mr. REID. Madam President, I ask the Chair to lay before the Senate a message from the House with respect to H.R. 1586.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the title of the bill (H.R. 1586) entitled "An Act to impose an additional tax on bonuses received from certain TARP recipients" with the House amendment to the Senate amendment.

MOTION TO CONCUR WITH AMENDMENT NO. 4567

Mr. REID. Mr. President, I move to concur in the House amendment to the Senate amendment to H.R. 1586 with an amendment, which is at the desk.

The PRESIDING OFFICER (Mr. BURRIS). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. MURRAY, for herself, Mr. HARKIN, Mr. REID, and Mr. SCHUMER, proposes an amendment numbered 4567.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4568 TO AMENDMENT NO. 4567

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4568 to amendment No. 4567.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, insert the following.

The provisions of this Act shall become effective 5 days after enactment.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion on the motion to concur at the desk. I ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment to H.R. 1586, an act to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes, with amendment No. 4567.

Harry Reid, Max Baucus, Charles E. Schumer, Edward E. Kaufman, Barbara Boxer, Roland W. Burris, Tom Udall, Robert P. Casey, Jr., Mark Begich, Patrick J. Leahy, Jack Reed, John F. Kerry, Richard J. Durbin, Sheldon Whitehouse, Amy Klobuchar, Tom Harkin, Al Franken, Daniel K. Akaka, Maria Cantwell.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTION TO REFER WITH AMENDMENT NO. 4569

Mr. REID. Mr. President, I have a motion to refer with instructions at the desk. I ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to refer the House message to the Senate Appropriations Committee with instructions to report back forthwith, with an amendment numbered 4569.

The amendment is as follows:

At the end insert the following:

The Appropriations Committee is requested to study the impact of any delay in providing funding to educators across the country.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4570

Mr. REID. Mr. President, I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4570 to the instructions to the motion to refer.

The amendment is as follows:

At the end, insert the following:

“and include any data on the impact on local school districts”

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 4571 TO AMENDMENT NO. 4570

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 4571 to amendment No. 4570.

The amendment is as follows:

At the end, insert the following:

“and the impact on the local community”

Mr. MCCAIN. Mr. President, I opposed the motion to invoke cloture on the small business lending bill for several reasons, with the foremost being that it had become a vehicle for petty partisanship rather than a serious effort to extend a much-needed helping hand to America's small businesses.

The manner in which this bill has been deliberated in the Senate has been both frustrating and disappointing to say the very least. The majority leader has brought this bill up for consideration and then moved off of it to consider other matters no less than six times since June 24. Furthermore, he has offered at least three different substitute amendments—each time filling the amendment tree and filing cloture—effectively choking off debate and prohibiting my colleagues and me on this side of the aisle from offering amendments.

This should not be a partisan bill. In fact, as originally introduced, this measure enjoyed broad bipartisan support. The original version of this bill included many positive provisions. For example, it included a number of tax provisions that had been championed by both Republican and Democrats which both sides believed would help small businesses create new jobs.

The \$30 billion fund contained in this bill was supposedly designed to provide capital to community banks and give them incentives to make loans to small business owners. While this is a nice notion, I have heard from some of the smaller, community banks in my home State of Arizona that the capital requirements were so stringent that they would not even qualify for the program and, there are serious concerns as to whether or not this would turn into another bank bailout program.

One of the provisions of this bill that I strongly opposed was a carve-out of \$1.5 billion for agriculture disaster assistance which was not requested by the administration. While I support ensuring that our farmers are protected from financial losses caused by natural

disasters, Congress must first find a way to pay for this increased spending just like many of the other handouts included in this bill. That is why many of my colleagues had hoped to offer amendments, including an amendment to extend expiring tax breaks for small business owners, an amendment to eliminate the death tax, and an amendment to make permanent the tax credit for research and development—just to name a few. Unfortunately, the majority prevented us from offering those important amendments.

I had planned to offer an amendment on border security that would have helped generate sales tax revenue for border towns. The amendment would have added an additional 6,000 new Customs and Border Protection agents and officers to secure the border and to ensure that those seeking to cross our borders legally at our ports of entry are able to do so without unnecessary wait times. There are frequent, often excessive wait times in the northbound lanes at the DeConcini/Port of Entry in Nogales. The economy of Nogales, AZ, is heavily dependent on cross border traffic, with the majority of the city's sales tax revenue generated by shoppers from Mexico. The long wait times to cross the border are having real, adverse effects on the economy of Nogales. Securing our borders should be the top priority of CBP and that the drug related violence that threatens our border communities must be combated with all available resources. With that said, businesses and law abiding citizens should be able to cross the border in an efficient manner.

Our economic recovery and the creation of new jobs are the most important issues facing our nation today. We have an unemployment rate of 9.5 percent and we need to do all that we can to help our small businesses thrive. It is my sincere hope that we can end the partisan bickering and reach an agreement that will give our small businesses the tools necessary to create jobs.

MORNING BUSINESS

Mr. REID. Mr. President, unless my friend the Republican leader has an objection, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Having said that, there will be no more votes until Monday at probably around 5:30 p.m.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

SMALL BUSINESS LENDING FUND ACT OF 2010

Mr. MERKLEY. Mr. President, I wish to speak to the proceedings that have just taken place this evening and try to put them in some context.

What we have had before this Chamber is a bill that is very important to putting the American economy back on track. Lots of folks have looked at the various chokepoints in our economy, and so many have found that one of the critical issues is the access to lending by small businesses. That is a key provision in the bill before us—the ability to capitalize healthy community banks so they can make funds available to small businesses so small businesses can seize opportunities and put Americans back to work.

There are many other terrific provisions in this small business jobs bill. They include, for example, a capital gains tax holiday that will assist small businesses. It includes a whole number of provisions, in fact, that stack up to \$12 billion in tax reductions for small businesses.

This bill came to this floor in a bipartisan way, with many provisions that were Republican provisions, some that were Democratic provisions, bipartisan support out of committee. It is before us now, and the question throughout this day has been this: Are the Republicans blocking this support for small businesses because they are opposed to helping small businesses and want to drive this economy back into a double-dip recession or do they have a legitimate concern that they should get a chance to offer amendments on the floor of the Senate?

To put that issue to rest, our majority leader made the following proposal: Our colleagues across the aisle would get three amendments. The Democrats on this side of the aisle would get three amendments. Both sides get to choose the amendments they want to bring forward. That is a legitimate debate about small business. That gives everybody a chance to weigh in. That certainly addresses any procedural issue. What was the response of the Republican leadership? The Republican leadership responded and said: No, we want four amendments, and we also want to control what the Democratic amendments are. In other words, we want to have the say on eight amendments while the Democrats choose none.

Of course, it becomes very clear: The Republican intent is not to have a debate about taking our Nation forward and getting out of recession; it is to block bills that will help our small businesses and put this economy back on track.

I say to my colleagues across the aisle, there is too much at stake for this sort of outrageous political competition. Put your November thoughts aside, I say to my friends, and focus on what is right for the economy of this Nation, what is right for the small businesses of this Nation. Let's have the three amendments on each side as each side would choose. Let's get it done, and then let's go home and know we are working together in a problem-solving, bipartisan fashion to make our

communities stronger, to create employment opportunities for our working families, and to strengthen our economy as a whole.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, there are a number of Senators on the floor who wish to speak. I see the Senator from Michigan, who has indicated she would like to speak for a minute on this bill. I will talk for the next 5 minutes, and others are going to want to speak as well.

I commend the Senator from Oregon, who has been down here day after day explaining the value of this extraordinary bill that was put together through hours and hours and days and weeks and months of debate in the Finance Committee and in the Small Business Committee.

I was very pleased to hear the leadership—although we came to no final agreement in the last hour, I am feeling and hearing, as the Senator from Oregon alluded, that perhaps we are moving closer to that opportunity because this bill was built with good will, with hard work, with some smart and innovative ideas.

Just to say how proud I am of the effort, this is just a list of headlines today that have come out in support of this bill. Some of these headlines are questioning, is someone blocking this bill? What is happening? Why can't we get this small business bill done? It is a good question.

So it is Thursday night. We have some time to continue to work. The problem with the four amendments that were offered by the minority is that they are not exactly offering side-by-sides to that, but it is better than eight. So we are making some progress. So I am going to stay on the Senate floor tonight and talk about the fact that this bill has, if you count it, actually probably more Republican provisions than Democratic provisions in the bill. They are all good.

As the majority leader said, this will be a great victory, not for us but for the small businesses we represent. This will be a great step forward to turn this recovery into a job-filled recovery rather than a jobless recovery because the only entities that will be creating jobs, Mr. President, as you know, because you were a former banker, are small businesses.

I want to show the chart about the jobs lost to just repeat this. The job loss in America has been from small businesses. If people want to know what happened to the 15 million jobs, what happened to the 10 million jobs, I will tell you. They ran out the front and back doors and out the windows of small businesses all over this country. If we don't do something, either tonight or tomorrow or next week, they are going to go through another whole month and maybe longer.

We have been debating this for a year and a half. It is bipartisan. I believe we are coming to some conclusion, and I

am very proud I have helped lead a part of this effort. But I see the Senator from Michigan and one of the members of the Small Business Committee here, and I say to them that I think we are just speaking in morning business. So under the previous order they can be recognized.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mrs. SHAHEEN. Mr. President, I am here to join my colleagues to again talk about why it is so important that we pass this small business jobs bill that is before us.

I so much appreciate the leadership of Senator LANDRIEU to try to get this bill through. She has stated so eloquently why it is important for us to pass this legislation. It has been pointed out that this is a bill that has significant input from our Republican colleagues. It has been pointed out that this is a bill that will go a long way toward addressing the jobs we need to create if we are going to bring this economy back. She has stated so eloquently why it is going to be there to help so many small businesses.

Everywhere I go in New Hampshire, what I hear from the small business owners I talk to is that their No. 1 challenge is adequate access to credit. This bill addresses that. It sets up a fund to help community banks so they can lend to small businesses. It sets up a fund to help States so they can go through their programs to lend to small businesses. It expands the SBA loan programs, which have been so important to keep small businesses afloat. It helps with export assistance for our small businesses—something they have had trouble doing because they do not have the resources to be able to access international markets on their own. It provides \$12 billion in tax breaks for small businesses.

Right now, the only thing standing in the way of this bill being passed to help the tens of thousands of small businesses across this country is our colleagues on the other side of the aisle. It is unconscionable that we can't get the votes to pass this bill and to do what we need to do to help small businesses grow and create the jobs that are going to help lead us out of this recession.

So I congratulate Senator LANDRIEU and all of my colleagues who are here or who have spoken on this bill and who have worked so hard to try to get it done, and the people on the other side of the aisle who have been courageous enough to support aspects of this bill and to provide amendments to it. I hope over the weekend they will hear from their constituents about why this is important to get done so that when we come back next week we will see a change in the perspective and we will see the 60 votes that we need in this body to pass this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I also want to start by thanking the

chair of the Small Business Committee, the Senator from Louisiana. She has done a remarkable job. Her tenacity and passion and commitment for small business and for this legislation has gotten us to where we are today, and I am proud to be joining with her in this effort, along with the Senator from New Hampshire, who just spoke, and the Senator from Washington, Ms. CANTWELL, who has been such a champion, and the Senator from Oregon—both Senators from Oregon—and the many Members who have come to the floor and colleagues on the other side of the aisle who have joined in particular provisions of this bill.

As the leader and the chair of the Small Business Committee has said, this is, in fact, a bill that has significant pieces, if not the majority of pieces, that have been bipartisan or have come from the Republican side of the aisle. Yet what we are seeing is a strategy by the Republican leadership to continue to block and block and block, and to filibuster, filibuster, filibuster even something that is important for Main Street.

This is not about Wall Street. This is not about a bailout to Wall Street hoping that they will lend to small businesses, which didn't happen after the crisis when credit markets froze up and lending didn't happen, certainly, in my State of Michigan or across the country. So we have had to come back and try a different route for Main Street, and this is what this is about—Main Street, the folks who are creating the majority of jobs which are in small businesses.

We also have a lot of folks who have lost their jobs and who are now starting a small business. I know lots of folks in their forties, fifties, and sixties who have never been out of work before in their lives who are now out of work and are turning to a small business. They are going out in the garage or the basement or maybe the spare bedroom—maybe they are starting up a business with someone else—and they are starting something new. The problem is they can't get a loan to get started. They can't get the capital they need, and that is exactly what this bill is about.

This is about a new partnership with community banks and small businesses to create a lending facility to open the doors to capital. It is also about expanding what the SBA is doing.

Another very important provision of this addresses what happens when people's assets go down in value. People are seeing a decrease in the value of their own property, whether it is their home, their business, their equipment, their commercial buildings, so that their collateral has lessened and the ability for them to go to the bank and say: I have X amount of collateral to put up against the loan—now they are finding that the value of that property has been cut in half and they can't continue their line of credit or they are not able to get the loan.

There is also an important provision in here that addresses a program that actually started in Michigan, Mr. President, and I am very proud of it. It is with the Michigan Economic Development Corporation. This will allow a partnership with the State economic development entity to be able to back up the business, to be able to help them be able to finance even though their collateral has decreased.

Before I talk more about that, I also want to mention that we are talking about basically allowing investors and small businesses to take a 100-percent exclusion from capital gains on small business investments made this year. So eliminating the capital gains provisions for this year—100 percent.

We are focusing on other important provisions that relate to tax cuts for small business and also trade and export promotion. We want to help our small businesses export their products, not their jobs. So there are many important provisions in here, and I believe we have some 80 different business organizations supporting this legislation.

This is not Republican versus Democrat out in the real world. We have Republican businesses, Democratic-owned businesses, tea party-owned businesses, all kinds of folks out there who can't get loans. This is not a partisan issue, and it is extremely unfortunate that it has become a partisan issue.

I want to share a couple of stories. This is about a business called American Gear in Michigan. It is a 25-year-old manufacturer of custom-made machine parts. They sell parts to the automotive industry, to the U.S. Navy, the glass industry, and the steel industry.

In 2008, American Gear made a record profit. But then in 2009 they saw a tremendous pullback from their customers and lost money for the first time in history. They were forced to cut staff, trim overhead, and tried to work with their bank to access additional cash to keep going. But they weren't able to secure access to enough of the capital they needed to complete their existing orders—even the existing business that they had.

They are trying to expand. They are trying to get new customers. They are profitable once again. But because their 27,000-square-foot building has lost so much of its value, the bank has pulled their loan and they have been unable to get another lender.

They have just hired two new employees to help with new orders, but they can't get credit. They might have to start cutting back again and turning away customers because they can't get access to capital.

This bill will help American Gear. It will help this company that has been dealt the double whammy of reduced cashflow and property, which is used as collateral, that has decreased in value because of the recession. This is very important. This is something that has been overwhelmingly successful in

Michigan. Michigan's program started in 2009 and targets businesses with good credit risks but those who can't get the cash they need because their collateral or their cashflow is falling short.

That is what this is all about. The business I am talking about, American Gear, is a solid business. They are making a profit again. This is a business with good credit, but they have lost the value on their buildings, and they are unable now to get a loan. This bill addresses that. This bill addresses that.

We also have another story from Michigan—and there are many stories from Michigan—about Michigan Ladder in Ypsilanti, MI. It is the oldest ladder maker in the United States. They have been in business since 1901. They are still in their original buildings with 20 employees in Ypsilanti, MI. Nearly all the other makers of ladders have moved to Asia or South America.

Michigan Ladder sells primarily to commercial and industrial contractor suppliers directly. They manufacture several sizes of wooden ladders, distribute fiberglass and aluminum ladders which they have produced for them as well. The company experienced difficulty due to the poor commercial real estate market and the housing market. They trimmed their staff, cut benefits, and worked hard to rightsize themselves. They believe they can be competitive. They are aggressively working to continue to produce in Michigan, but they can't get the financing they need to buy equipment to produce new products because of the fact that their equipment, the collateral they have, has been reduced in value.

This is a story that I have heard repeated hundreds and hundreds of times, Mr. President. This bill addresses that. This bill fixes that.

Let me move now to process because substantively we have no reason not to pass this bill. There is absolutely no reason, based on the substance, on the need for small businesses and the support from over 80 different organizations across this country, not to pass this legislation. So why do we have a filibuster going on?

I just want to speak about that for a moment because the reality is, we need to vote.

The democratic process is to vote. When we run for reelection, if you get one more vote than the other person you win the election. We don't say a supermajority. We say simple majority, one more than the other person. That is a democracy. We are saying here, let's vote, give us a vote, an up-or-down vote. You can vote no or you can vote yes, but don't keep using these efforts that block us and force a supermajority to block us from even having a vote. That is what is happening here. Over and over again we are being blocked from even having a vote.

Can you imagine in the election if there were a capacity to block an election day from even actually having the vote? We have men and women serving us in this country around the world, putting their lives on the line, losing their lives for the democratic process based on the ability to vote and majority rule. Yet here in the Senate the rules have been totally perverted and twisted to throw sand in the gears and require a supermajority to even move a step forward on anything.

Let's review where we are right now. We have had 246 objections and filibusters since we started 18 months ago—246. That is unheard of. Not all of those have actually gone to a cloture vote, a vote to stop a filibuster, because we do not have 246 weeks. The leader cannot get us through that whole process that takes a week to stop a filibuster on every single objection. Some of these have gone to an actual vote, a 60 vote, and on others there have been objections that have stopped us from voting. It is unheard of. We have never seen this before in the history of our country.

When our country started, there were two that year. Then some have been zero, some there have been maybe three or four or ten. Some sessions of Congress there have been no filibusters.

Here we are. In the last Congress we ended the year at 139 filibusters, and we have topped that. This is what happened last time when this began to be used as a strategy by the Republican leadership. It is way off the charts. Now it is so far off the charts we cannot put it on the chart. This is now used as the basic strategy for everything: Stop everything, throw sand in the gears, and make sure nothing improves, that nothing happens that will improve the lives of families in this country, improve the economy, create jobs. I find that to be extremely unfortunate.

We have a situation right now where we have the opportunity to do something for those on Main Street, the folks who have not caused any of the crises that have been facing our country. They did not make the reckless decisions on Wall Street that brought the financial crisis. They were not the ones who didn't enforce our trade laws fairly so we lost jobs overseas. They are not the ones who made any of the decisions. But they have been affected. Middle-class families, who may not consider themselves middle class anymore, are just holding on.

Many of them own small businesses or work in small businesses or are trying to start a small business. These are folks in every one of our States, in every community that we represent—small businesses, mom-and-pop operations, small suppliers. Most of the people in the auto industry are small businesses. They are small companies, small suppliers such as the ones I mentioned, such as American Gear, a small supplier. They find themselves now in a

situation where they cannot operate; they can't expand; they cannot conduct business. They are having to lay people off because they cannot get credit.

We can fix that. We can fix that right here. All we have to do is one of two things: Have courageous colleagues on the other side of the aisle join us to stop a filibuster or, all together, stop this thing and vote. That is vote, that is all we are asking for, an up-or-down vote, yes or no. But allow a vote to happen.

I hope we are close on an agreement. Unfortunately, our leader, who has an incredible amount of patience, finds himself too often in a situation where he is trying to negotiate but the numbers keep changing, the circumstances keep changing, and we are never actually able to get an agreement in good faith. I hope that is not the case here because we need to get this done.

People are watching us and wondering what in the world is going on in the Senate. People understand what is happening in the real world, what is happening to small businesses. Every weekend when I go home—and I do go home every weekend—every weekend when I go home I hear about small businesses not getting access to capital. They cannot get a loan, they cannot continue their line of credit. Everywhere I go I hear about that.

I understand my time is up. I again thank my colleague, the chair of the Small Business Committee, for standing strong. I stand with her. This is incredibly important and there is no reason whatsoever that we cannot get this done on behalf of small businesses across America.

The PRESIDING OFFICER. The Senator from Washington State is recognized.

Ms. CANTWELL. Mr. President, I thank my colleague, Senator LANDRIEU, for her fight and vigor today, trying to break a logjam here on the Senate floor and to pass important small business legislation.

When you think of Louisiana and you think of the Saints, you think of the people there who have such spirit. If there were a time in our country's history when small business ever needed a patron saint, it was at the crisis of 2008. Senator LANDRIEU and the Small Business Committee have become a leader and voice for small business in America. I thank her for that, for that same fight she put into making sure her constituents received help and support in the post-Katrina catastrophe, the same fight she displays now, making sure the gulf is addressed and that there are resources put in for cleanup. She is putting up that same fight for the millions of Americans who are trying to get access to capital for their small businesses.

We are only talking about three basic things in this bill, all to help small business. We are talking about tax credits to make sure that items such as equipment and machinery get some little support so small businesses will

make some more investments. We are talking about tried and true programs such as the 7(a) loan program and the 504 loan program and the enhancements of those programs to put more capital out onto the streets. We have already pointed out because we have allowed this enhancement to expire that we have seen a 60-percent reduction in June of the amount of money accessible for small businesses, below 2008 levels.

Is that what we want to do, suppress capital to small business by 60 percent below 2008? In the month of August, if we do not get this legislation passed, there will be \$760 million less available for small business.

I know some of my colleagues are saying let this keep going. Republicans will keep voting against cloture and we will do business in September. It is not acceptable to wait until September to help small businesses that need access to capital today. I wish people would listen to the heartbreak in America of small businesses. When the crisis happened in 2008—many of those people are resourceful people. That is why they start small businesses. So what did they do when the crisis happened? They buckled down; they tried to figure out how to make adjustments in their businesses. They borrowed money from relatives. They borrowed from their 401 programs. They did everything they possibly could to hang on for a year.

Contrast that to Wall Street. Wall Street didn't even have to hang on for 1 day before they got help from the Treasury. Not even what Congress did; the Treasury was over there helping people before they even asked for help. Nobody did that for small business in America. So these people have waited over a year to get this help. They hung on with their savings and their investments for 1 year.

In January they were ready to go with these programs and these support systems and wanted to see the access to capital, but they did not see that. Not only did they not see these program enhancements like we wanted, such as the recapitalization of community banks, instead, they saw their community bankers tell them: We are canceling your performing line of credit.

People did everything to hang on. They did everything they could to hang on. I could tell you stories that are heartbreaking about restaurants, about small businesses that closed their doors after 30 years of being in business—closed their doors because they could not hang on anymore.

The question for my colleagues on the other side of the aisle is how many more businesses are going to close? How many more people are going to lose their jobs if we do not address this issue and break this deadlock and make sure we are voting on access to capital for small businesses on Main Street? Calculate it. They have already been holding on. They cannot hold on much longer.

Every day that goes by that we do not reauthorize this advancement in the 7(a) program, we are costing dollars, we are costing small business access to capital they used to have. It is not even new capital in some cases; it is capital they used to have but it got canceled out from under them because of what happened on Wall Street.

It is time for my colleagues to show the same level of urgency for small business, to show we understand that these individuals in America have been hanging on. Listen, they are what makes America a great country because they are such entrepreneurs and they have done everything they can to weather this storm. But it is time to put down the "no" votes on moving ahead and move to getting this product, the enhancement of 7(a) and the 504 and the capital and recapitalization of community banks, off the Senate floor and get it signed before the House adjourns. That is what we need to do to create jobs now, in August. If you do not want to do that, you are going to be costing many more Americans their livelihood.

I yield the floor.

Ms. STABENOW. Mr. President, before my friend from Washington State leaves the floor, I thank her as well. She has been an incredible leader on this issue and we are very fortunate to have someone who has been in business, a successful businesswoman who brings her knowledge of business and of finance into the Senate. Her passion and partnership with Senator LANDRIEU have been very important in getting us to this point. I want to say thank you to the Senator from Washington for her leadership as well.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I am pleased to join my two outstanding colleagues on the floor tonight to continue to talk about this extremely important bill. I follow up on what the Senator from Michigan said about the Senator from Washington State. There are only a handful of Senators in this Chamber who have actually built a business, a small business—it was when it started—and then of course it was an extremely successful larger business in the State of Washington State, and then it went national. So she knows about what she speaks, the details of how a business needs to be built.

You cannot build it without access to affordable capital. Our businesses, some of them that are lucky enough to have something, are paying exorbitant interest rates on their credit cards. Some of them have watched their lines of credit evaporate, so they have to scramble to go get high-cost—it is hard to run a small business if you are paying 10 percent, 20 percent, 30 percent or 50 percent on the money you are borrowing to run your business.

You know you have to get affordable capital. That is what small businesses need. That is what they do not have. Members on the other side of the aisle

could not run fast enough to bail out big banks on Wall Street, but they are walking at a snail's pace to get small business help on Main Street, and it is a shame.

But these headlines today say it all: "GOP Filibusters Small Business Bill After Criticising Dems For Delay," "Senate Republicans Block Small-Business Lending Measure," "GOP blocks small business bill," "Republicans block Senate vote on small business," "Republicans block small business lending bill."

The New York Times article today is actually pretty devastating. I would think if anybody bothered to read the top two paragraphs—I am going to ask my staff to get that to me in just a second, and I am going to read it into the RECORD. It goes on and on and on.

I think that this debate has shown that we actually brought a bipartisan bill to the floor, that has been worked on openly in public all year or longer, in two committees, Finance and Small Business. As I said earlier today, and I put the red-line chart up, which I will put up in just a minute, this chart that we sent out to many people today showed every provision of the bill and who suggested that provision. As you can see, there are many Republican names listed here—Senator SNOWE, Senator CRAPO, Senator RISCH, Senator SNOWE again. Senator GRASSLEY is on here. Senator HATCH is on here—because this bill was built with some of the best ideas from these committees over a long period of time.

This is not a little bill. It is not a technical bill. It is not a bill that you pass and nobody knows you passed it because it does not do anything. This bill does some great things that we have needed to do for a long time.

That is why we are fighting so hard. That is why we are not going to give up, and we cannot wait much longer. As Senator CANTWELL said, it is heart-breaking for small businesses that had nothing to do with the Wall Street meltdown. They never owned a derivative. They never heard of the word "derivative." They never heard of the word "swap." All they were doing was serving pancakes in their diner day after day. All they were doing was selling hardware equipment so their neighbors could build or repair their houses. They never heard the word "derivative."

Then a couple things happened. They started seeing some very scary headlines. All of a sudden, the entire world economy was at risk, and they are standing there saying: Wait a minute, what did I do? I have been doing the same business. I am not a millionaire, but I am happy, I take care of my employees, I am bringing home a nice paycheck, I am building my business, and the floor fell out from underneath them through no fault of their own.

This Congress has scrambled and scrambled and could not run fast enough to go help the big businesses and the executives. Sometimes I read

in the paper what they make and I sit there and I almost want to cry, not because I am jealous of what they make in that way, but I think to myself, how does it feel to be struggling in a business and you—I have had letters from people who said: Senator, I stopped paying myself completely. That is what business owners are doing right now. They have stopped paying themselves completely, and I have to wake every morning and read about big company executives who are complaining because their take-home salary is \$20 million a year or \$200 million a year.

I mean, think about that, \$20 million, \$200 million a year. We have business owners, 27 million small business owners, and many of them right now—because as Senator CANTWELL said, this catastrophe did not start just 2 months ago—who have been holding on.

I think about them at night. I see them. I think they are holding on with just their bare knuckles, by the remaining strength they have. They are not making any money. So the article today says—and they have gotten it right. This is dozens of articles:

Senate Republicans on Thursday rejected a bill to aid small business with expanded loan programs and tax breaks, a procedural blockade that underscored how fiercely determined the party's leaders are to deny Democrats any further legislative accomplishments before November's midterm elections.

This is a small business measure championed by myself and others and has the backing of some of the Republican party's most reliable allies in the business world, including the United States Chamber of Commerce and the National Federation of Independent Business. Several Republican lawmakers, the article says, helped to write the bill. But Republican leaders filibustered.

As the Senator from Michigan said, this is unprecedented. I do not know if the Senator from Michigan has that chart, but I would like to ask her to show it again, if you could hold it up or let me take it here because it is unprecedented in the number of noes and filibusters.

I think this is a no that might have been said, but we need to find a way to say yes. I know a no was said, but we have to find a way to say yes. So that is what we are going to be doing tonight, tomorrow, through the weekend. I wish to say how much I appreciate the 70, now over 100, organizations that are supporting this bill. I know the NFIB has said, and I wish to be very clear, they want the bill. They also would like a few amendments.

But they did not say they wanted 100 amendments. They did not say they wanted 50 amendments. We are now sort of down somewhere between one and four. That is better than 8 or 12 or 10. We are somewhere between one and four. If we can just keep narrowing it and try to be as fair as we can, we can deliver for the American people and share this wonderful victory, and I mean that. Share it. This is not a

Democratic victory. It will not be a Republican victory. It will be a victory for our constituents and for the 27 million small businesses in America that are waiting for someone to stand and help them, cheer for them, and encourage them.

That is what we are trying to do. I appreciate the support the President himself has given. He has been leading. He has been saying, as he is trying to work our way out of this recession—and I have not agreed with every single thing, of course, and no Senator does with any President, but I think this President has said that he understands the recession will be over when small businesses start to hire because big businesses are not going to.

They basically say that in their reports. They are holding their capital. The big banks are holding their capital. It is going to be the small businesses that create the jobs. It is where the jobs were lost.

I am going to show this chart again. This is from the monthly National Employment Report: Small business, 81 percent of the jobs lost were lost by small businesses. So it makes common sense that if it was the small businesses that lost the jobs in a recession, as I said, they were not in the back when they were making the "donuts," they were not trading on derivatives. They did not have anything to do with that.

But they got caught up in a terrible financial collapse because of greed and poor regulations and all sorts of shady dealings, and they did not have anything to do with it. But they lost the jobs. So in order to get this recovery moving and get jobs in the recovery, so it is not a jobless recovery but a job-filled recovery, we have to focus on small business.

My ranking member, Senator SNOWE, has worked very hard on many provisions of this bill. She has been a remarkable champion for small business. MAX BAUCUS, every time we have sent him a couple things we want to do, you know what his job is? It is to find a way to pay for it. He has a thankless job around here. I want everyone to know. He has probably the toughest job in this entire place because everything everyone wants to do, everything, we have to find a way to pay for it.

You know the guy who tries to find that is MAX BAUCUS. I have given him page after page, amendment after amendment. He has been so gracious. Every time we say: We need this amendment paid for, MAX, can we find a way to pay for it, he goes to work.

But we are getting exhausted through this process, but we are going to continue to fight. Senator BAUCUS has found amazing ways to pay for these amendments because we are not going to add to the deficit anymore. Those days are over. We are going to pay for this bill. This bill has tremendous possibilities to actually make a lot of money. One program will actually earn \$1.1 billion, it was so smartly

put together. Then we understand that if more people are hired, of course, they will pay taxes, and that money will come back to local government and State government and that will be a big help to everyone, to try to get us out of our deficit situation.

I see one or two other Senators on the floor. I see the Senator from Pennsylvania. My time has expired under the 10-minute morning business order. But I wish to thank the Senator from Michigan and the Senator from Pennsylvania for their support. I am going to be working over the weekend with Members of both sides of the aisle.

I am going to be working with both sides of the aisle over the weekend, through tonight, tomorrow, be in touch with both leaders, and continue to work with Senator LEMIEUX and Senator VOINOVICH, who were the two Republicans who gave us a vote on the lending program, and see what we can do to narrow it down from four to potentially one, have a great vote, and claim victory for the small businesses of America. We all share a great victory and can be proud of the work we have done over the last year and a half.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, first of all, just in case our chair of the Small Business Committee, Senator LANDRIEU has to leave, I wish to reiterate what a number of us have not only felt but have even spoken about over the last couple days, in light of her work on this legislation.

She has been, in a word, tireless and fearless, for one reason: Because she, like so many of us, but I think in a very special way she understands what so many of these small business owners have told her and told a lot of us, that they need help and they need it now.

They do not want to hear about a political debate, they want action and they want us to pass this legislation. She has worked so hard on the substance. She has worked so hard on the work that you have to do in the Senate to get an agreement, to get a bipartisan agreement, to make this a bill that has no impact on the deficit.

So whether its fiscal responsibility, whether it is the substantive provisions that help small businesses from Louisiana to California and back all across our country in places such as Pennsylvania that I represent, she has done that work. I think the people of this country know that.

I think it is very important that even when we thanked her once, we need to repeat ourselves because she has done great work. I think we should follow her lead. We should not have the kind of political debate we are having. She and others have worked out a very good agreement, and I think they are on their way to doing that again.

We are so grateful for her leadership and for her tireless efforts to get this passed because this is a bill that, in the end, is about not just the rhetoric, as

we often have in Washington about small business, but having substantive provisions that will cut taxes for small business. It will enhance existing small business loan programs that work. All the criticism we hear sometimes about programs that do not work, there are loan programs that are working and just need another bump, just need a bit of help.

Finally, establishing a new Small Business Lending Fund and all this without adding to the deficit. Let me take them one at a time.

First of all, tax breaks: Over \$12 billion in tax cuts going back to taxpayers. Here are just a couple examples: To encourage investment in small businesses, the bill will increase the capital gains exclusion from 50 percent up to 100 percent of the gain through the sale of small business stock. This provision will provide a greater incentive to invest in small businesses and will spur job creation.

This is a bill that is about jobs, about creating lots of jobs in the near term. The bill will encourage small businesses to invest in their companies, which is what a lot of owners tell us. They say: I want to create jobs. I want to expand. But they don't have the capital or the help to do so. It will do that by expanding a business's ability to write off the cost of certain real property that is purchased for the use of the business. We know the section 179 program in the Tax Code helps us do that. To further encourage Americans to start their own small businesses, the bill will double the deduction for start-up expenditures.

Let me move to another element: the need for capital for small businesses in a State such as Pennsylvania and around the country. We have heard this over and over. Month after month, you walk up to someone and you say: How are we doing? Sometimes you get good news, sometimes bad news. One resounding and consistent message we have heard: We are glad you passed the Recovery Act; we are glad you passed the HIRE Act; but I still don't see enough help for small business.

Finally, we have a piece of legislation which is targeted at the engine of the economy—small businesses and the people who are creating the jobs: small business owners. These owners all across the country, tens of thousands, hundreds of thousands, have made that point to us over and over. They want to expand, but they don't have access to capital to do it.

The changes in this bill, which is budget neutral, will increase small business lending by \$5 billion in the next year. That will create or save over 200,000 jobs. In the end, it is a jobs bill. It is not only a bill about programs, it is a bill that will create jobs.

First, the bill will increase the limits of the 7(a) loans from \$2 million to \$5 million. We have heard about that provision. Just to give a sense of what that means for Pennsylvania, in the last roughly 18 months or less, from

February of 2009 to June of this year, the SBA administered over 1,700 7(a) loans in Pennsylvania. The changes in this bill should allow for many more. We have 67 counties in our State. You can imagine the impact county by county when you have more than 1,700 loans on an existing program just in less than 18 months. If anything, this bill will exponentially increase the number of those loans. So next year or the year after, when we are reporting on this, if we complete work on this and get it passed, instead of 1,700 loans in Pennsylvania to small business owners, maybe it will be 2,500 or 3,000 or much higher.

I come from a State which most people think of as big cities such as Philadelphia and Pittsburgh. But there are so many places in Pennsylvania where we have a very small town or even a rural population. We don't have a lot of big buildings, a lot of big cities. We have a lot of small business owners fighting every day to make ends meet, to borrow a little bit more money to keep going, literally living week to week and month to month. These kinds of loans can have a direct and positive impact, a disproportionately positive impact on those kinds of businesses in small towns and rural areas of Pennsylvania and across the country.

The bill will also increase the loan limits of microlenders who provide short-term working capital to small businesses from \$35,000 to \$50,000. That is a lot of money when you are really up against it as a small business owner and you are trying to get to the next month or the next quarter in terms of your workforce or your payroll.

The bill will increase the limit of 504 loans from \$1.5 million to \$5.5 million. We know the purpose of the 504 Loan Program—to provide financing for acquisition and renovation of capital assets.

Let me give a personal example: Kate Berger of North Huntingdon in Westmoreland County, near Pittsburgh, a big county that has a lot of smaller communities. The Presiding Officer knows counties such as that from his State of West Virginia. There are a lot of parallels in terms of the population and demographics.

Kate Berger received a 504 loan to help grow her business. She is a former accountant and owner of JB's Bright Beginnings. She entered into the childcare business when her own childcare needs for her two children were not being met. Here is someone who had a challenge in her own life, and she decided to deal with it by starting a small business. The center she sent her children to was closing. She purchased equipment, hired staff, and went back to school for additional training in early childhood education. She was doing all the right things, everything anyone could ask of her to create a new business.

She began running her business out of a very small facility. When the opportunity to purchase a larger facility—a former elementary school—

arose, she jumped at it, as a very capable small business owner would. With the help of the 504 Loan Program, Kate was able to purchase the space, with room for expanded services and 8 acres of outdoor space for the children, for her childcare center. Since moving to the new location, enrollment at JB's Bright Beginnings has increased from 66 to 104 children. Kate has hired an additional 15 employees, bringing the total number of staff to 35.

That is a success story. We don't get a lot of those in the news. But for Kate Berger, the 504 Loan Program is not some theory, some concept; this is real life for her. She took a risk. She got more training and more education. She borrowed money. She took some personal risk to do this. She is now increasing the number of children served and hiring 15 more people.

Finally, the bill will provide an opportunity to create the Small Business Lending Fund, a critical component of this bill, the creation of a \$30 billion Small Business Lending Fund. This will provide working capital to small banks that have continued to lend during this financial crisis. Approximately 80 percent of commercial lending is done through the smallest loans at these banks. We hear that over and over again. Small bankers say: We want to provide more lending. We cannot always do it. An increase in lending by the banks will amount to a new lending and growth for small businesses.

We know that by providing this opportunity to have \$30 billion of lending available, this lending fund will be able to unlock \$300 billion in capital for small businesses. The fund will spur lending and get credit flowing to small businesses, which is another reason to take action on this bill. An investment of \$30 billion incentivizes the creation of \$300 billion in capital that is leveraged. We know that when we give the private sector a little help and a kick-start here and there, they can provide a lot of extra money to increase exponentially what we can do to help small businesses.

We need to pass this legislation. We need to remove the politics from this debate. We need to make sure our friends on the other side of the aisle know that when they—some of them, not all but some of them—were lecturing us month after month, saying our side of the aisle was not doing enough for small business, I would argue they were dead wrong when they made the assertion, but that was their argument. Now we have the opportunity, this rare opportunity to have a single piece of legislation that is focused on small businesses.

I urge colleagues to live up to the rhetoric they have been putting forth all these many months, to stand up and vote for this bill. A vote for this bill is not a vote only for a piece of legislation. This, indeed, is a vote for small businesses. It is a vote for the people they represent in their States. Small

businesses are not Democratic or Republican or Independent; they are American. It is about time people in this Chamber, who talk and talk about small business, do more than talk. It is about time for them to stand up and vote, vote the right way to help small businesses of whatever political party that small business owner happens to belong to.

I yield the floor.

The PRESIDING OFFICER (Mr. GOODWIN). The Senator from Michigan.

Ms. STABENOW. Mr. President, before my friend from Pennsylvania leaves, I thank him for his wonderful commitment to small business and passion and voice on this issue. We are lucky to have him and very much appreciate all of his wonderful work. Pennsylvania and Michigan have a lot in common. Our hard-working folks, a lot of them who have been losing their jobs in one industry, are starting small businesses. They are looking to us to understand what it takes to start a small business and to keep a small business. That is what this bill is all about. I echo what the Senator from Pennsylvania said about the importance of this bill, and the chairman of the Small Business Committee, and wish to stress a couple provisions we haven't talked as much about.

First, of course, the major piece is about access to loans from SBA, increasing the loan limits and the size of microloans. That will increase lending through the SBA by about \$5 billion next year. A lot of small businesses will buy new equipment, will be able to hire staff to expand or keep their business going.

The large lending facility we have all talked about that takes \$30 billion and partners with community banks and creates \$300 billion worth of capital for small businesses—I can't imagine a better shot in the arm than having that capital available.

There is something else that is also important. I am pleased to be a part of the President's Export Council. The President has set a goal of doubling exports in the next 5 years. Many of the businesses we are talking about interested in exporting are small businesses. We have international businesses in Michigan, and they have their own operations around the world. They are not in need of support through the export operations in the Department of Commerce, but small businesses need that.

I think of one woman whom I know. Her sister-in-law is a dear friend of mine. I talked with her. She lives in northern Michigan on Leelanau peninsula, which is absolutely beautiful, north of Traverse City, MI, the kind of place you would like to be today. It is absolutely beautiful up there on the Great Lakes. It is certainly much less warm than here. She is in an area where there are wonderful cherry growers and all kinds of fruit and vegetable growers. She has put together nutritional products from the power and nu-

trition of cherries and has come up with a number of things that are very healthy to help people with joint problems and other issues which cherries are actually very helpful with, a very powerful commodity in nutritional assistance. She is interested in exporting. She started a small business up in northern Michigan, and she has now moved out to, the last time I talked to her, 300 different places around Michigan and the country.

We have talked to her about what she could do to sell her product overseas as a nutritional product. There is a great deal of interest in doing that, and I hope we can help her do that. But she needs assistance from the export expertise in the Department of Commerce.

In this bill, we have small business trade and export promotion efforts. The great Senator from Minnesota, Ms. KLOBUCHAR, championed this effort. It would improve the SBA's trade and export promotion programs. It establishes a State export promotion grant program and strengthens coordination. It would leverage more than \$1 billion in export capital for small businesses. That is estimated to create or save about 50,000 jobs this year.

So there are new opportunities. With the wonders of the Internet, we are now in a global economy. We can communicate around the world with our cell phone or certainly with the Internet. We have the ability to help small businesses create jobs by connecting them to the world in terms of the markets they can access. Help for that is in this bill. So that is another very important piece.

There is also an increase in Federal contracts for small businesses. Just increasing Federal contracts for small businesses by 1 percent is estimated to create 100,000 jobs. Now, we know in the bidding process, again, larger businesses tend to participate, tend to have major contracts from the Federal Government. Yet this is an opportunity for small business. If we can increase contracts by just 1 percent, we can create 100,000 jobs; 2 percent, 200,000 jobs, and so on. Provisions are in the bill to increase contracting opportunities, which are very important opportunities for small business.

We have talked about the tax cuts. I hear frequently as a member of the Finance Committee from friends on the other side of the aisle concerned about raising taxes on small business, and we certainly share that concern. We certainly are not supportive of doing that. But here you have an opportunity to cut taxes on small businesses, doing away with the capital gains on small businesses this year, increasing the deduction to start a new business, expanding the expensing provisions, bonus depreciation provisions for small businesses, and also something very important that we, of course, have been working on in health care, and put in place in the structure that will help small businesses down the road, in 2014, with the new insurance pool—a

competitive way to price and purchase insurance. But until then we have a lot of self-employed people who find themselves in a very difficult situation, who cannot find affordable insurance, if they can find it at all.

This bill would allow them to deduct their health care costs for payroll tax purposes on their tax returns. This is another important matter that people who own small businesses care about and worry about for their families. That is a part of this bill.

When we go down through here and look at the huge effort around capital available for small businesses, the efforts in partnering with States to help small businesses that have lost the value of their property, their equipment—the collateral they would use normally to get a loan—there are provisions to address that, provisions to help small businesses afford health care by deducting their health care costs, help for exports, expanding bonus depreciation and expensing, eliminating capital gains, and giving small businesses more opportunities to contract with the Federal Government.

When you look at all of this, I am stunned. Why are we still having to have this debate? How long are we going to have to do this when every day we have small businesses that are holding on trying to figure out what they are going to do to keep their doors open? We are at a point now where we have to come to a conclusion and pass this bill. I hope anyone who says they care about small business will join with us and show they do—not just talk about it—but show they do by supporting the small business bill, as the chairwoman said, that now has over 100 different organizations, business organizations, supporting it.

I hope they will do that. I hope they will stop the filibustering, stop blocking this bill, stop the strategy of throwing sand in the gears over and over, using the rules of the Senate to tie this place in knots. What we need—what we need—is to just vote. That is it. What we need is to exercise the democratic process of just voting, do away with the filibusters, do away with all the efforts to block, and just allow the democratic process to work. People can vote “yes.” They can vote “no.” But just allow us to have a vote.

We are looking for colleagues, just a couple of colleagues, joining with us. We have colleagues who have worked across the aisle. We are urging them to stand with us to stop this filibuster and allow us to vote on behalf of small businesses in America, to give them the support they need.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I would like to follow up on what the Senator from Michigan has said because she has been one of the most forceful voices for trying to find a way to get the Senate to be able to move more quickly on so many important

things. She is right. We have to stop saying no every day, and particularly on this day, and start saying yes to small businesses. The sooner we can say yes to small business, the sooner this recession will end, the sooner Americans can get back to work, and the sooner we can begin to put a real downpayment on the deficit that has been caused by reckless policies of the past.

She is right. And every day matters. This bill has been debated literally for a year and a half—not on the Senate floor but in committees and meetings and negotiations. As I held up a chart earlier today, most of the provisions in the bill—both from the Finance Committee and the Small Business Committee—were Republican-generated ideas or amendments. As I said, small business has many champions in this Chamber, and we need to show them, not just say we are but actually show them that with our votes.

It is going to be a long weekend for some people. I am going to be working all weekend. But it is going to be a long weekend for some who are concerned about image because I am going to submit for the RECORD, just today, in the last 24 hours, the list of headlines that are coming out around America from papers—conservative papers, liberal papers, independent newspapers—and they are not good for my friends on the other side of the aisle.

The Huffington Post, more liberal, of course: “GOP Filibusters Small Business Bill After Criticizing Dems For Delay.”

But Bloomberg, not that liberal: “Senate Republicans Block Small Business-Lending Measure.”

Politico, one of our papers here: “GOP blocks small-businesses bill.”

CQ: “Republicans Block Senate Vote on Small-Business Bill.”

An AP article in the Boston Globe: “Republicans Block Small Business Lending Bill.”

This cannot be good news over the weekend for a group that claims they are very probusiness.

A Las Vegas Sun editorial today: “Helping Main Street—Senate Should Approve Legislation That Could Spark Small Businesses’ Growth.”

The Washington Independent: “Democrats Go Small. GOP Still Says ‘No.’”

They have said no one too many times. We have to say yes. If we want this recession to end—and I believe we do; I believe all of us do—we know our constituents are counting on us to do good work. So it is going to be a long weekend for whoever’s job it is—the staffers over there—to try to get better headlines for their bosses. They are going to be working hard over the weekend. One of the ways we can do that is to get a small list of amendments, like one, two, three, four. The leader, our leader, offered three. It was rejected. We have been talking somewhere now between one and four. I think over the weekend we can figure that out, how to pay for these amendments.

Mr. President, I ask unanimous consent that a list of other headlines be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF HEADLINES

New York Times—“Small-Business Bill Falters On Senate Partisanship”

Washington Post (Opinion)—“GOP blocks small business bill. Who will get the blame?”

AFP—“Obama pleads with Republicans on small business bill”

International Business News—“Small business aid bill stalls in Senate”

Congress Daily—“GOP Blocks Small-Biz Measure”

Star Ledger Editorial Board—“Obama in Edison: President seeks to aid small business, but Republicans resist”

Credit Union Times—“Small Business Bill Stalls Again”

American Banker—“Small Business Lending Fund Bill Stalls—Again”

The Wall Street Journal—“Reid, McConnell in Talks Over Small-Business Bill”

Ms. LANDRIEU. But I want to answer again because these small business groups—we have 80 of them and they are counting on us—keep calling and saying: Vote for the bill. Vote for the bill. And what they are hearing from the other side is: We can’t vote for the bill until we get amendments.

If we try to put too many amendments on this bill, even good ones, it will bring this bill down. We have to find a way to come to an end of the debate, give the small businesses of America a \$12 billion tax cut, and strengthen the SBA programs that banks and credit unions use—the small business programs—and then get this special lending program, in partnership with community banks, for the banks that know their community the best, the banks that know the businesses down the street.

The Taco Sisters Restaurant in Lafayette, LA—I have used Katy and Molly Richard before, and I would like to repeat some of the things they said. This is in 2008, looking back now—not a great time, but Molly convinced her sister Katy to move back home from New Hampshire and they made their dream come true. They leased a small restaurant on Johnston Street in Lafayette and they opened in February of 2009. They sell wonderful Louisiana products. Molly goes on to say they have seven employees but would like to open more locations. The problem has been getting credit to grow. She says:

We have good credit, a good business plan, but have had trouble finding capital to grow our business. I was surprised that credit would be so tight for a business like ours—a short success story but successful nonetheless. Our business has seven employees and would like to keep growing, open more locations.

This is the kicker line:

Small community banks know businesses in their towns and can create jobs by getting more money out to them.

This bill is not about big banks on Wall Street. It is about entering a partnership with banks on Main Street so

they can send capital to the businesses across the street.

It is a very simple bill, and we are going to work hard—hard—to pass it.

On the issue of amendments, again, so we are clear, the minority leader came to the floor earlier today and said something like: The majority leader keeps putting down substitutes, and we don't get to read the substitutes, and we don't know what the substitutes are.

Well, I have read the substitutes. I will tell him what they said. Senator REID came down to the floor and offered the substitute first. He introduced a new substitute because Senators SNOWE, GRASSLEY, ENZI, ISAKSON, and COLLINS wanted to put the SBA recovery provisions—those are the very popular loan provisions they had in the stimulus package—the Republican Senators—I am going to repeat their names: SNOWE, GRASSLEY, ENZI, ISAKSON, and COLLINS—all five Republican Senators wanted to move that provision from a bill that is pending somewhere else into this bill. So the Democratic leader said yes, and he did it. He put that in the substitute, and then offered it as a substitute. That was not good enough.

So then five other Republican Senators—I am going to get their names right here—Senators THUNE, JOHANNES, COBURN, INHOFE, and BOND—filed an amendment. The record will show it was amendment No. 4453. Their amendment, led by Senator THUNE, was to kill the Small Business Lending Fund.

So this is where it really gets interesting. My leader comes to me and says there is a Republican amendment to kill the Small Business Lending Fund, and so he has to accommodate them. I said: But that is the heart of the bill. He says: We still have to accommodate them. So he takes it out of the bill, really against my wishes, but I guess at the time I did not think I had any alternative.

That was a Republican amendment. The leader not only accepted it, we did not even have to vote on it. He just did it automatically.

Those are two amendments they got that we did not even vote on because the leader did it for them, against my wishes, and against a lot of people's wishes.

So we build up again and say: OK, you had to take it out, but we think we have 60 votes to put it back in. And so we did. That is the process. We had 60 votes. We put the lending fund back in.

I see the Senator from Florida in the Chamber. He helped to do that. Senator NELSON from Florida helped to put that lending provision back in this bill.

Now we have come to sort of a standstill because of that, and maybe because of a few other things. I am figuring this out as we go along. But one thing I have already figured out is, we have to find a way now to pass this bill.

The leader has had some very good discussions on the floor—just a couple

of hours ago. But I have to defend my leader because when the other side says that HARRY REID, the Senator from Nevada, will not give them amendments, he does more than that. He puts their amendments in his substitutes, which means they do not even have to offer them. He does it for them automatically.

So they deserve headlines like this. I hate to say it. They earned them. They tagged themselves with these headlines.

Maybe other people around here would not call them out, but I think it is my job as the chairman of this committee because I said when I took this chairmanship that this committee was going to be a champion for small business and we were going to fight hard for them. I offered lots of amendments for them in other bills. Sometimes I was successful; sometimes I wasn't. But I said we would fight for them, and that is what we are going to do. If there was ever a time they needed us to stand up and fight for them, it is now.

There was an article in the Washington Post—and I will conclude in a minute. I see the Senator from Florida. This is what our people read. I know not everybody reads the L.A. Times, and I think this came from the L.A. Times, but this was the headline I read and got upset about, and I want to say why I did.

I think the small businesspeople in my State sit around and read articles such as this, and when their kids come to the breakfast table I think they fold the article at the breakfast table because they don't want their children to see it because it is very upsetting. Lots of kids can't read; they are young. But a lot of teenagers can. This is what teenagers read.

This is by Kenneth Feinberg, who is doing some work in the gulf. He just released a list of firms that gave their top employees bonuses of \$1.6 billion. The report found that bonuses and other payments to highly paid executives at Goldman Sachs, Bank of America, Citigroup, Wells Fargo, and 13 other financial forums were, he said, ill-advised. The payments, more than \$10 million in addition to generous annual salaries for some, came as many of the 17 firms suffered huge losses. Feinberg says they were not good. The President says they were lavish bonuses. I don't know what to say about them because I can imagine a small business owner who has borrowed from everybody he knows to keep his business open the last year and a half; he stopped paying himself 8 months ago, and his children are sitting at the table saying: So, Dad, why can't we go on vacation?

While they are asking that question, he is reading the headlines about the same companies we gave money to on Wall Street gave bonuses of \$10 million or \$20 million or \$30 million, and he doesn't have \$200 to take his kids down the street to the amusement park.

Do my colleagues want to know why people in America are mad? I think

this might be one reason. They don't understand what Washington is all about.

I am not on the committee that has to oversee bonuses. It makes me so mad I don't know what I would do if I were, but I am just pointing this out. While we are here diddling over small business, this is what small business owners are reading, and they are wondering: Has the world turned completely upside down? The same firms that got our money to bail them out get bonuses, and I can't even pay myself or my wife who works for the business or my child a salary for a month.

I am telling my colleagues, we better get moving on this bill, or I am not sure what is going to happen to either party when this election comes up because we need to do what is right. We need to do it soon. We know what is right, I think. I believe we do. We have worked hard to put a very smart, good bill together that doesn't increase the deficit by a penny; that provides \$12 billion in tax cuts—tax cuts, \$12 billion. I know those people on the other side, our friends, say Democrats are never for tax cuts. Well, we have \$12 billion in tax cuts paid for in this bill for small business.

So to the sisters who started this restaurant in hopes they could depend on us to do some right things for them, for all the small businesses struggling out there, I am saying to them: Just hang on. I know it is hard, but just try to hang on a few more weeks, a few more months if you can, because this bill is going to have a major impact, we hope. We don't know 100 percent for sure, but I can promise you doing nothing is a disaster. This bill has a lot of things we are going to try. Nobody here has a magic wand. But we have loan programs. We have some counseling programs. We have some small bank programs. We have some credit union programs. We are going to just throw it out there carefully, strategically, and hope it hits because if it doesn't, I am kind of running out of ideas because I am not giving any more money to Wall Street.

So these are our best ideas for Main Street. I am proud of the work we have done. I see the Senator from Florida. I am going to yield the floor. There may be other Senators who wish to come down and speak.

I wish to thank Senator NELSON from Florida who has been a champion. I wish to again thank Senator MERKLEY, Senator SNOWE for her work earlier today. Although we disagree on one small aspect on this bill, we will still work together over this weekend to see what agreement we can come to. I wish to thank Senator CANTWELL particularly, and Senator SCHUMER, Senator KLOBUCHAR, and others who have been terrific—Senator BOXER, Senator MURRAY. We are going to continue to work over the weekend to see what we can do to say yes to small business in America soon.

Mr. NELSON of Florida. Before the Senator yields the floor, would the Senator entertain a question?

Ms. LANDRIEU. I would be happy to.

Mr. NELSON of Florida. First of all, I don't want the Senator to be rushed because I came over here so that I could hear the Senator. The Senator from Louisiana is so articulate and so passionate. She has laid the case out with the bare facts that if there is any embracing, as there seems to be, of support for small business, including a lending facility of \$30 billion to try to get money through the community banks into small businesses, which are desperate—and my State of Florida has a lot of small business—if there is this unanimity of feeling, then why are we playing these parliamentary games of adding on, insisting on the other side of the aisle's position that they want amendments that have nothing to do with small business and, therefore, cluttering up, as the Senator from Louisiana says?

Is the world coming to an end? Is the Senate coming to an end where we are in such perpetual gridlock that something that is so commonsense as this legislation to help small business—to help that family at the breakfast table the Senator so eloquently described—are we at the point that the Senate is incapable of functioning because one side says it has to have its way of having amendments that it wants that has nothing to do with small business? Have we come to the point of complete gridlock?

Ms. LANDRIEU. Well, I hope not. I wish to answer the question. I hope not. But we are very close because this bill, as the Senator knows, came to the floor because he helped to draft certain provisions of this from two committees with bipartisan support. Our leader, Senator REID, has bent over backwards.

When Republicans objected, he basically sort of took some things out of the bill to put on the floor in hopes—didn't even make anybody vote on it, against my objections, and then we started a debate. Then it just sort of shut down after we got that lending program back on. We have to open it again. We have to find a way forward because that lending program is extremely important.

The Senator was a cosponsor of that. We have to find a way forward. I think I heard tonight on the Senate floor—I think I heard—that we are somewhere between one and four amendments.

So as we work over the weekend, I am hoping we can find a way to say yes because the Senator knows, representing Florida, it is a whole State full of small businesses. The Senator knows more than any Senator here how many businesses are hurting in Florida. Our whole gulf coast has been under tremendous strain over many issues the last couple of years. So I thank the Senator. I am just responding to his question to say I hope we are not at the point of no return. But we are close.

If we can salvage this bill and move forward and do the right thing for small business, I think we can all be proud of that work.

Mr. NELSON of Florida. Mr. President, if the Senator would further yield, why do we have to mess up this bill with message amendments? These are political message amendments. For example, there are some amendments that on their own might be desirable amendments. There is an amendment—the fourth amendment of the four the Senator from Louisiana just mentioned—is one having to do with spending caps. That might be a desirable thing, but it is controversial. So why is the Republican side insisting on an amendment that is going to be controversial which lessens the chance for us to get 60 votes to cut off debate?

Ms. LANDRIEU. Well, the Senator is exactly right, but a better question is why would the minority leader insist on voting on an amendment we have already voted on three times. That is even a more interesting question. We have already voted on the Sessions-McCaskill amendment three times.

The Senator knows some people work for 10 years on amendments and never get a vote on the floor of the Senate. That amendment has had three chances—not one, not two, but three—and now we have to give them a fourth vote on the floor of the Senate. That is not anything to do with small business; that is a message.

It sends a terrible message. It says we are looking for bumper stickers and slogans as opposed to bills. I will say that again. Some people work around here for 10 years and can't get their amendment one vote on the floor of the Senate, and the Sessions-McCaskill amendment, in this case, because the minority leader has thrown it out there, we have voted this year three times already on that amendment. I don't think we need to vote on it again. We surely don't need it for this bill. It has nothing to do with spending caps. It has to do with sending money to community banks because they know the businesses that might be able to hire people, to create jobs, to lead us out of the recession. That is all this bill is mainly about.

Mr. NELSON of Florida. Mr. President, if the Senator will further yield—and I will be very brief because the Senator's patience has been extraordinary, and she has been at this going hard, full throttle all day—I would ask the Senator, in light of the extremely descriptive word picture that she painted of the family at the breakfast table and the mom and the dad don't want the teenagers to see that folks on Wall Street are getting all of these bonuses while they cannot even go down and have a weekend vacation because the money is not there, all of this is just exacerbated in the Senator's gulf coast State, as is my gulf coast State, because of the loss of income, the loss of business as a result of the gulf oil-spill. Now we find that BP indeed

wants to lessen their Federal tax liability by \$10 billion by writing off all of the expenses attendant to this gulf oil-spill.

When you lessen your tax revenue, that means that you are asking for the taxpayers to make up the difference. Is it any wonder the mom and dad at the breakfast table don't want their children to know what in reality is going on here?

Ms. LANDRIEU. Exactly. I mean, I don't know how you explain to teenagers. There really is no explanation.

I think it is shameful and we need to fix it. The Senator should know that is what we are trying to do. Again, I don't know what we can do about those bonuses. That is a subject for another committee. I am concerned and the Senator is as well. Maybe we can find a way. The BP writeoff—there will be a tremendous amount of criticism, and perhaps there are some legal grounds for us not allowing them to do that. It is inexplicable to people who are trying to run a small business and they see us having worked for a year and a half, and all that is going on and we still cannot seem to move this bill forward to the House for negotiation and then to the President's desk as quickly as possible.

Mr. NELSON of Florida. Mr. President, I will say this in conclusion, if the Senator will yield further, every one of us has small businesses in our States. The economic engine of Florida is small business. It is those very people who have come forth in this recession and have said they are having difficulty and, in many cases, cannot make financial ends meet because they cannot get the banks to lend to them.

The big banks will lend to big customers. They are not fulfilling the obligation of lending to the entire community. The community banks wish to make those loans to small business and, yet, they say they are harassed by regulators. Here we have provided an avenue of money to flow through community banks to small business to help them make their financial ends meet. It is unconscionable that people in a parliamentary and partisan fashion would hold up this legislation.

That is what I wanted to say, in conclusion, to the Senator from Louisiana.

Ms. LANDRIEU. I thank the Senator from Florida. I am going to speak another 4 minutes. I know staff is tired and we are going to wrap up soon. I wanted to end with a comment from another small business in Metairie, LA, which is right outside of New Orleans. This is a small business owner, Patti Martinez, a lifelong resident of New Orleans, who opened her business in March 2009. I am sure she thinks about that decision every day, thinking: Maybe I should have opened a couple of years earlier or waited. But she didn't know all the derivatives on Wall Street would blow up. She opened her business in March 2009. She has three children, so the idea is she waited for 10 years—there are a lot of moms out there who

have small kids at home. Frank and I have raised our children while I have been in the Senate. He works, too. We know how difficult that is.

I know a lot of moms dream for a long time about what they would do if they had some time. Patti waited 10 years and then opened her business—lucky her—in March 2009. She said: I have 15 employees; they are part time. Our little business has taken off beautifully. We host birthday parties, holiday parties, and sock hops. I recently hosted a 50th birthday party.

She is explaining that her business is going on. She said:

Everyone, once inside our facility, loves our business and comes back again [even in these difficult times]. We ran one commercial on Channel 4 for a week and our bookings quadrupled.

One commercial on Channel 4, which is our big station, for a week and her bookings quadrupled.

If I had additional funds for advertising, video games, and maybe one more employee, our business would really take off.

This is the story of the recovery. This is the story of the end of this recession. If we don't have more business owners like Patti Martinez who will hire that one more person, this recovery is never going to happen. Don't take my word for that. Go look up all of the journals, the scientific journals, and all of the economic studies. You can go to the fancy schools—Harvard, MIT—and look and they say that. It is not just what I am saying. Big business isn't going to hire. Small business is going to hire—the Patti Martinezes of the world. She ran one commercial and her business quadrupled. Couldn't we give her a loan so she can run maybe two or three commercials? She is not paying herself any bonus, I can promise you that.

I am going to end with a letter we received today from the National Restaurant Association, representing 945,000 restaurants across the United States. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL RESTAURANT ASSOCIATION.

DEAR SENATOR: The National Restaurant Association, representing 945,000 restaurant locations across the U.S., supports H.R. 5297, the Small Business Jobs Act of 2010. The restaurant industry, which employs nearly 13 million Americans and is expected to generate an overall economic impact of \$1.5 trillion this year, is comprised mainly of small, independent businesses. In fact, more than 98% of restaurants are classified as small businesses.

H.R. 5297 would provide our nation's small businesses with tax relief and assistance in gaining access to capital that is critical to economic and financial recovery. Importantly, this legislation would increase the Section 179 expensing limits and expand Section 179 to allow taxpayers to expense up to \$250,000 of the cost of qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property. In addition, the legislation would extend bonus depreciation, which expired at the end of last year. These provisions would

encourage small businesses, including those in the restaurant industry, to undertake capital expenditures. Moreover, these capital expenditures have a multiplier effect, spurring economic activity and job growth in communities throughout the country.

An important part of the bill are the provisions to modernize popular Small Business Administration (SBA) loan programs and extend expiring loan guarantees and borrower fee reductions. Specifically, the maximum size of SBA 7(a) and 504 loans would increase from \$2 million to \$5 million and from \$1.5 million to \$5.5 million respectively. The fees on such loans, which were eliminated through 2009, would continue to be eliminated through 2010. In addition, government guarantees of 90 percent on such loans would also be extended through 2010. These provisions have the strong support of Small Business Committee Chairman Landrieu and Ranking Member Snowe. We also support the LeMieux-Landrieu Amendment incorporated into the bill, which would establish a \$30 billion Small Business Lending Fund designed to assist small banks to specifically lend money to small businesses. As the nation's fragile economic recovery continues, households are still holding back on spending and, as a result, many restaurant operators are continuing to struggle. Expanding access to capital will help restaurant operators make necessary investments, hire and retain workers, and, in certain cases, keep their doors open.

Additionally, we urge passage at some point this year of two additional amendments that were filed but will not be taken up at this time. First, we support an amendment filed by Senator Bill Nelson that would provide some tax benefits to small businesses and individuals impacted by the Gulf Oil Spill. Where the Gulf Coast's beaches and wetlands attracted millions of visitors in previous years and generated demand for restaurants, the Deepwater Horizon oil spill is now having resounding negative economic consequences. As such, we urge your support for the Gulf Coast recovery package recently released by Senators Bill Nelson, Wicker, Landrieu, Cochran, Vitter, and LeMieux. The package contains tax incentives that would assist small businesses such as restaurants as they grapple with the long-term challenges resulting from the worst environmental disaster in U.S. history. The tax incentives include tax deferral for reinvested small business reimbursements, extension of the net operating loss carryback period, an oil spill recovery zone job creation tax credit, and enhanced small business expensing in the oil spill recovery zone. Another meritorious provision that should be considered is allowing the deferral of SBA loan repayments for those businesses located in the gulf region and impacted by the oil spill.

Finally, we urge permanent resolution of the estate tax issue. In this regard, we would like to take this opportunity to note our support for the estate tax amendment offered by Senators Kyl and Lincoln, which would provide hard-working small business owners with certainty on this important issue.

We urge you to support H.R. 5297, which will go a long way to help small business during this difficult economic climate.

Sincerely,

SCOTT DEFIFE,
*Executive Vice President,
Policy & Government Affairs.*

Ms. LANDRIEU. In part, it says:

We also support the LeMieux-Landrieu Amendment incorporated into the bill, which would establish a \$30 billion Small Business Lending Fund. . . . As the nation's fragile economic recovery continues, households are

still holding back on spending and, as a result, many restaurant operators are continuing to struggle. Expanding access to capital will help restaurant operators make necessary investments, hire and retain workers, and, in certain cases, keep their doors open.

The restaurants in my State are having a particularly difficult time because they don't have capital. Now they don't have any seafood to sell. If we keep going much longer, they are not going to have any customers even if I could give them capital and seafood, because people don't think they should come to the gulf now. That is a whole other subject.

Tonight, we can loosen up some of this capital through bankers that they know—they worship with them in church, they worship with them in synagogues; they know them. The bankers know them. If we can help small community banks, maybe—just maybe—maybe some of the money we shower on Wall Street—maybe we could give a little bit of rain out there to middle America and get this recession over.

I yield the floor.

TRIBUTE TO LOIS BAKER

Mr. McCONNELL. Mr. President, I rise to pay tribute to Mrs. Lois Baker and the commitment she made to providing rural health care services to thousands of Kentuckians. Beginning in 1971, Mrs. Baker was the chief executive officer of Mountain Comprehensive Health Corporation, MCHC, which continues to provide the residents of eastern Kentucky with quality, affordable health care. Since opening its first location, a trailer located on the line between Perry and Leslie Counties, MCHC has become a fixture in the region, operating locations in five eastern Kentucky counties. Now, with 250 employees, MCHC proudly serves over 27,000 patients each year.

Mrs. Baker's commitment to the Commonwealth extends well beyond her accomplishments at MCHC. A graduate of Fugazzi Business College and the University of Michigan's School of Public Health, Mrs. Baker served as president of Baker Coal & Land Company and as president of Letcher Manufacturing Company prior to becoming CEO of MCHC. As a member of the admissions committee for the University of Kentucky College of Medicine, Mrs. Baker proudly encouraged students from eastern Kentucky to pursue careers in the medical field and then to return home and utilize their skills to better the lives of their fellow Kentuckians.

Following her recent passing, the Booneville Sentinel published an article commemorating the life and accomplishments of Mrs. Lois Baker, and I would like to share that tribute with my colleagues. I ask unanimous consent that the full article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the Booneville Sentinel, July 14, 2010]

Lois Baker leaves a long list of achievements.

Funeral services for the founder and past chief executive officer of Mountain Comprehensive Health Corporation (MCHC) was held Wednesday, June 30, 2010 at the First Baptist Church in Whitesburg.

Lois attended Stuart Robinson High School, Fugazzi Business College in Lexington, KY and the University of Michigan School of Public Health.

Before leading Mountain Comprehensive Health to become one of the country's most successful rural health providers, she worked in the coal business and operated a furniture plant. She was president of Baker Coal & Land Company from 1959 to 1963, president of Letcher Manufacturing Company, Inc. in 1963 and became CEO of MCHC in 1971.

The first MCHC clinic was located in Wooten on the Perry/Leslie county line, in a trailer. MCHC operates five clinics, located in Letcher, Perry, Harlan and Owsley counties. MCHC's team consists of 250 employees and provides services to more than 27,000 patients each year. In looking back, Lois stated, "there was no way that at that time I could have imagined or anyone else that was working at that time could imagine Mountain Comp as it is today."

In October 1983, Lois extended her commitment of providing quality healthcare services to the residents of Owsley County and surrounding counties by opening the Owsley County Medical Clinic. Owsley Medical Clinic is now a medical practice consisting of two primary care providers and 15 employees whose mission is to utilize all available resources to provide affordable health care to those persons residing in its service area. The Owsley Medical Clinic is an asset to the area as well as a source of pride for Owsley County. Thank you Lois for thinking of us!

Lois served on many boards and committees. She was a member of the University of Kentucky College of Medicine Admissions Committee. She said that if an eastern Kentucky student applied to UK College of Medicine, they were accepted and encouraged to come back to the mountains to practice medicine. She was inducted into the Mountain Heritage Hall of Fame, the National Association of Community Health Centers Grassroots Advocacy Hall of Fame and the UK College of Public Health Hall of Fame.

Lois always had a vision and she never lost that vision. She was always a pioneer in everything and never afraid to tackle anything. She had a presence that seemed larger than life and felt it was purely about helping people by providing excellent health care. Lois's great passion for her work, compassion for her staff and patients, and friendliness even under stress made her a role model for all of us. She will be missed greatly by many.

CLEAN ENERGY JOBS AND OIL COMPANY ACCOUNTABILITY ACT

Mr. LEAHY. Mr. President, I commend the majority leader for introducing the Clean Energy Jobs and Oil Company Accountability Act. This bill, which I am proud to support, is a timely and targeted response to the continuing devastation in the Gulf of Mexico, a catastrophe which began 100 days ago. The Senate must move quickly to address one of the most immediate and pressing problems facing our Nation and to find meaningful ways to prevent similar disasters in the future. The American people rightly expect that

the lessons learned from this disaster will be heeded.

This legislation addresses several issues brought to light in the spill's aftermath. It will ensure the fair treatment of victims like the families of the 11 Americans who were killed in the explosion on the Deepwater Horizon oil rig. It will encourage responsible corporate behavior and provide meaningful criminal penalties for environmental crimes. It will ensure that British Petroleum and those responsible for this disaster and any responsible party associated with an oilspill at an offshore facility in the future are held fully accountable and liable for all of the damages the oilspill causes and that the American taxpayer is not left with the bill. It is a response that will help the people of the gulf begin the long process of restoring what they have lost. And for those who cannot recover what they have lost, it will help them as they move forward. These matters, and others, have been the subject of several recent hearings in the Senate Judiciary Committee.

Senators from several committees, including the Judiciary Committee, have made important contributions to this bill. I am pleased that the majority leader asked for and listened to the calls of members of the Judiciary Committee to make sure that a significant part of this legislative response was focused squarely on the needs of the victims of this disaster and that the Federal laws designed to provide justice for wrongdoing are fair.

I thank the majority leader for including two pieces of legislation I have introduced—the Survivor's Equality Act, and the Environmental Crimes Enforcement Act. I am confident that, when enacted, both of these provisions will help victims and promote responsibility and safety within the energy industry.

The Survivor's Equality Act would remedy profound unfairness in our maritime tort laws. The enactment of this provision will end the unequal treatment under the law for those who are killed at sea. The Death on the High Seas Act, which is one of the few remedies for these families to seek justice, provides compensation only for pecuniary losses associated with a wrongful death. This involves a cold calculation of a victim's monetary worth to his or her family and nothing more. And if an individual who is killed has no dependents, he or she is entitled to very little, yet the loss to a parent or a sibling is no less tragic. The current Federal maritime law does not recognize the profound losses associated with the death of a loved one—the suffering of a widow who has lost her husband; a parent who has lost a child; or a child who will no longer have a parent to guide them through life. In modern America, it is simply unfair to have a different standard of justice for those killed at sea than those killed on land.

Another important provision in the pending bill is the Environmental

Crimes Enforcement Act which would bolster the enforcement of environmental crimes. Often in the case of serious environmental catastrophes the companies that caused the disaster may be guilty of committing environmental crimes. These wrongdoers must be held accountable for their criminal acts, and they, rather than American taxpayers, should pay for the damage. The Environmental Crimes Enforcement Act is crafted to deter environmental crime, protect and compensate its victims, and encourage accountability among corporate actors. This would deter schemes by big oil corporations and by others that hurt hard-working Americans and their local economies and that damage the environment by increasing sentences for environmental crimes. All too often, corporations treat fines and monetary penalties as merely a cost of doing business, to be factored against profits. To deter criminal behavior by corporations, it is important to have laws resulting in prison time, and this bill would appropriately raise sentences for environmental crimes so they are comparable with sentences for other serious crimes. Nothing gets the attention of corporate decisionmakers like the prospect of serving time behind bars.

This provision would also help victims of environmental crime—the people who lose their livelihoods, their communities, and even their loved ones—reclaim their natural and economic resources by making restitution mandatory for criminal Clean Water Act violations.

Other members of the Judiciary Committee have made important contributions to the majority leader's bill. Senator WHITEHOUSE's legislation to reverse the Supreme Court's decision in *Exxon v. Baker* is included in this package. When this provision is enacted, the Supreme Court's arbitrary cap on punitive damages in maritime cases will be erased. Instead, with the appropriate measure of liability returned to a jury to decide, corporations engaged in dangerous and environmentally risky work will think twice about endangering the safety of their workers and the ecosystem.

Senator SCHUMER's legislation to repeal the antiquated Limitation of Shipowners' Liability Act has also been included. This statute limits a vessel owner's total liability to the value of the vessel after an accident has occurred. Updating this arcane law will foreclose the type of conduct we witnessed in this case when Transocean, the owner of the Deepwater Horizon, claimed its liability should be limited to the value of the Deepwater Horizon as it sat on the bottom of the gulf. That defies common sense and propriety. Congress cannot control a corporation's desire to evade its responsibilities, but the American people, through their Congress, need not allow a law that invites such behavior to stand.

Another important provision in this legislative package is the amendment

to the Land and Water Conservation Fund, LWCF, Act of 1965 to provide for full funding of the Land and Water Conservation Fund. This comes at a time when the purposes of this program are keenly important to communities across the country that are facing escalating development pressures, while striving to maintain their focus on improving the quality of life in their communities.

In my own home State of Vermont, LWCF has led to the conservation of many valued areas—from the Green Mountain National Forest, which stretches over nearly two-thirds of the length of Vermont across a diverse landscape, to our Missisquoi National Wildlife Refuge near the Canadian border, to the Appalachian Trail that winds through the State, and to the stunning Marsh-Billings-Rockefeller National Historical Park in Woodstock, VT. In recent years, LWCF has also helped to fund the Forest Legacy Program, which has permanently conserved more than 60,000 acres of forestland in Vermont and nearly 2 million acres nationwide. I am concerned, though, with how this new LWCF language has been drafted and worry that it could restrict our ability to allocate funds for the federal purposes, such as the Forest Legacy Program and other land acquisition programs that assist in preserving, developing, and assuring accessibility to quality outdoor recreation resources and important natural resources. I hope that I can work with the majority leader and other supporters of these land conservation programs moving forward to ensure that LWCF meets the outdoor conservation and recreation needs of the American people.

These investments not only protect crucial and delicate ecosystems and landscapes that are relied upon by countless communities and by indigenous wildlife; they also offer important recreation opportunities for Vermonters and visitors from other States to enjoy these beautiful places for our campgrounds, hiking trails, skiing, snow shoeing, snowmobiling, and fishing. It made good economic and environmental sense in 1965 and it remains good sense today to reinvest a small fraction of Federal leasing revenues in permanent natural resource protection. A healthier environment and more recreational opportunities will not only promote health and quality of life but also have a positive impact on our economy. More than 500 million people visit national parks and monuments, wildlife refuges, and recreational sites each year, contributing to family paychecks and to local economies.

LWCF is a visionary and bipartisan program. Since its creation in 1964, it has conserved more than 5 million acres of land and water across the country. These are iconic American landscapes like the redwood forests, the Grand Canyon National Park, the Appalachian National Scenic Trail, the

Great Smoky Mountains, the Denali National Park and Preserve, the Everglades, and our own Green Mountain National Forest in Vermont. This is a program that touches every American. Even those who have not been able to visit a national park or forest likely have enjoyed one of the many urban parks, picnic areas, playgrounds, open trails, or open spaces that LWCF has been the key to providing and protecting—places prized by everyday Americans across the land as places for recreation and so many other uses.

I am proud to have led the bipartisan efforts in the Senate to build support for the fund, whose budget is overseen by the Interior Appropriations Subcommittee. I have sought, with bipartisan support, increased funding for both the Federal and State sides of the program and the Forest Legacy Program, another successful and popular conservation initiative that I was gratified to be able to launch when I chaired the Committee on Agriculture, Nutrition, and Forestry. Regrettably, securing adequate resources for LWCF has always been difficult, and LWCF has only been fully funded once in its history.

I must also voice some additional concerns and reservations that I have about the LWCF language in this bill regarding the role of the Appropriations Committee. I hope that we can ensure that Congress, through the direction of the Appropriations Committee, will still have control in establishing how the Land and Water Conservation Fund is allocated among the State and Federal purposes and the various agencies within. I ask that the majority leader commit to working with the Interior Appropriations Subcommittee chairman to develop language that guarantees the role of the Congress in appropriating and directing these funds rather than leaving all control in the administration. I trust that we can find a way to fully fund LWCF and maintain the congressional involvement through the appropriations process.

I applaud the majority leader for including this provision in the bill and appreciate both his support and that of the chairman of the Energy and Natural Resources Committee, Senator BINGAMAN, for leading this effort to protect America's most treasured landscapes, to strengthen our local economies, and to ensure the future of our natural, cultural, and recreation heritage.

Now I would be remiss if I did not mention another program that has faced the same difficulty receiving its full authorized amount. That would be the Historic Preservation Fund, which also receives funding from the Outer Continental Shelf oil lease revenues but has rarely been appropriated more than half of the authorized level of \$150 million. I hope that I can work with my colleagues to solve this issue for the Historic Preservation Fund, just as we are trying to do for the Land and Water Conservation Fund.

This bill is also an important step forward for the Home Star Program, a bipartisan home efficiency effort that Congressman WELCH has helped lead in the House, that will lower consumers' energy and water costs while creating jobs. As Vermont has shown time and again, energy efficiency retrofits work. They not only create quality jobs and save homeowners money on their energy and water bills, but they also reduce our dependence on foreign oil and cut down on harmful carbon emissions.

The Clean Energy Jobs and Oil Company Accountability Act would reduce our dependence on foreign oil by making investments in vehicles that run on electricity and natural gas. The lack of fuel diversity in our transportation sector makes our economy and American consumers particularly vulnerable to increases in oil prices, and I am pleased that this bill invests in other transportation alternatives that will also bring down our carbon emissions.

I am sorely disappointed in Washington's inability so far to overcome the entrenched power of special interests by acting on comprehensive climate change remedies. This bill is not a substitute for that, but it does signifies several constructive steps forward.

I am proud to stand with Majority Leader REID in support of the victims of the greatest environmental disaster on American shores. But the legislative package he has assembled will do more than just bring justice to these victims. It will save consumers and taxpayers money, create jobs throughout the country, and move our country toward a safer, more responsible energy industry. It is a commonsense solution. I hope it will receive bipartisan support.

45TH ANNIVERSARY OF MEDICARE

Mrs. LINCOLN. Mr. President, tomorrow our Nation celebrates the 45th anniversary of Medicare, a vital program that has provided health care for millions of Americans through the years. During my career in the Senate, I have fought to ensure that our Arkansas seniors and all seniors receive the best health care possible. I have fought to protect Medicare benefits for our Arkansas seniors, so they can receive the care they need, when they need it.

I believe in the promise our government made to working Americans that if we work hard, Medicare will be there to help us in our golden years. Medicare has made a healthy and secure retirement possible for tens of millions of Americans, including my own mother.

More than 500,000 Arkansans are enrolled in Medicare, and I am proud of my work on their behalf. In particular, our Arkansas seniors will see significant new benefits because of the Patient Protection and Affordable Care Act, which I played a major role in crafting.

The new health care law will enhance the life and well being of our seniors in

many ways. For example, I fought successfully to reduce the Medicare Part D prescription drug coverage gap known as the doughnut hole, which will save seniors money beginning this year. In addition, the legislation will immediately extend Medicare payment protections for small rural hospitals and other health care providers that play vital roles in their communities.

I am proud that the Senate health care reform law explicitly states that no reductions in guaranteed Medicare benefits will be made, and that any savings generated for the Medicare program will extend Medicare solvency, reduce Medicare premiums and cost-sharing for beneficiaries, improve or expand Medicare guaranteed benefits, and preserve access to Medicare health care providers.

In addition my Medicare Advantage lemon law included in the bill creates a 45-day period—January 1 through February 15—beginning in 2011 during which beneficiaries who enroll in Medicare Advantage or prescription drug plans during the annual enrollment period can disenroll and return to traditional fee-for-service Medicare. This proposal will help protect seniors from losing benefits or the ability to see their doctors if they have discovered they signed up for a Medicare Advantage plan that does not cover their doctors or does not meet their health care needs, a problem we have experienced often in Arkansas.

As we commemorate the 45th anniversary of Medicare, I would like to take this opportunity to thank the entire Arkansas health care community for their dedicated efforts to ensure that their fellow Arkansans receive the best care possible. In particular, I commend our health care professionals for their participation in the Medicare program, providing comfort and care and making a healthy retirement possible for millions of Arkansans since the program's inception 45 years ago.

AFGHANISTAN REPORT

Mrs. FEINSTEIN. Mr. President, the Senate Caucus on International Narcotics Control has been studying the evolving counternarcotics efforts in Afghanistan and has found that the Taliban has morphed into a hybrid—it is one part terrorist organization, one part global drug trafficking cartel.

The Taliban's terrorist operations are increasingly fueled by its substantial narcotics profits, with as much as \$169 million coming from a single heroin trafficker in a 10-month period.

In Afghanistan, the convergence of terrorism and international drug trafficking is strikingly similar to what we have witnessed in Colombia. There, profits from the cocaine trade has kept the Marxist terrorist group known as the FARC going for the past 46 years.

These hybrid organizations are the face of 21st century organized crime.

In just one counternarcotics operation in October 2009, a major labora-

tory in Kandahar province in Afghanistan was raided. Sixteen Taliban were killed.

Roughly 1.8 metric tons of opium and heroin were seized at the lab—along with improvised explosive devices, IEDs, IED bomb-making materials, and Taliban training manuals.

The Drug Enforcement Administration, DEA, took down 25 heroin processing labs in Afghanistan in fiscal year 2009. All of them had ties to the Taliban.

In December 2009, before the House Armed Services Committee Karl W. Eikenberry, U.S. Ambassador to Afghanistan testified that:

The cultivation of poppy and the trafficking of opium without a doubt has the most debilitating effect of Afghan society, feeding corruption and undermining the legal economy, while generating funds for the insurgency.

Systemic corruption at all levels of the Afghan government remains a problem fueled by the drug trade.

The two largest income-generators in Afghanistan are estimated to be drugs and bribes, accounting for \$2.8 billion and \$2.5 billion per year, respectively, according to the U.N. Office on Drugs and Crime report: "Corruption in Afghanistan," January 2010.

Together, that is equal to about half of the country's legitimate GDP. This shocking figure clearly identifies the two biggest problems in Afghanistan: drugs and corruption.

Additional resources for the counternarcotics mission are now being developed after it was determined that drug trafficking clearly supports the insurgency.

However, experts agree that it may take many years to get the drug trade in Afghanistan under control.

Meanwhile, as the U.S. military plans to scale back its presence starting in summer 2011, civilian personnel will remain to continue to support Afghans.

So the question comes: Will the civilian counternarcotics forces in Afghanistan have enough personnel and equipment to continue meaningful operations without the U.S. military?

As part of the Drug Caucus review, I asked that we identify which programs and tools work, and which ones don't.

This report makes several recommendations, including: Increasing the capacity of the Afghan counternarcotics forces; continuing U.S. support for alternative livelihood programs and evaluating new program proposals; clarifying U.S. policy on eradication; increasing dedicated assets for air support of counternarcotics missions prior to the U.S. military drawdown; utilizing narcotics investigations as a tool to root out and prosecute corrupt Afghan officials; and suggesting policymakers develop a counternarcotics plan as soon as possible for when the military-to-civilian ratio changes.

Let me highlight one of the report's nine findings and recommendations.

This finding involves narco-terrorism investigations.

In addition to hearing testimony, we have spoken to experts from the Departments of Justice, State, and Defense, nonpartisan think tanks, and intelligence community officials.

All agreed that it is essential to remove the leadership of the Afghan narco-cartels from the deadly mix of drug money and terror.

However, the Afghan judicial system is not capable of prosecuting and incarcerating high-value narcotics kingpins.

The good news is that there is a legal vehicle for U.S. law enforcement to remove these high-value targets.

In March 2006, as part of the Patriot Reauthorization Act, the United States enacted title 21 United States Code section 960a.

Known as the Federal narco-terrorism statute, this law gives DEA the authority to pursue narcotics and terrorism crimes committed anywhere in the world—if a link can be established between a drug offense and a terrorist act or group.

This statute can be applied worldwide. It has been particularly effective in combating major drug violators in Afghanistan.

These are the violators who are providing weapons and other substantial resources to the Taliban for use against American and coalition forces, and against the innocent civilian population of Afghanistan.

DEA currently has two 13-agent units—the Bilateral Investigations Unit and the Terrorism Investigations Unit—which address this type of narco-terrorism.

The Bilateral Investigations Unit primarily pursues cases of drugs being exported to the United States, and has been responsible for successfully investigating and convicting major Mexican and Colombian drug traffickers.

The Terrorism Investigations Unit investigates international criminal organizations that use illicit drug proceeds to promote and finance foreign terrorist organizations and acts of terror, pursuant to title 21 U.S.C. § 960a, narco-terrorism.

Agents with the Terrorism Investigations Unit have produced impressive case results, including: obtaining the first conviction under the new narco-terrorism law, against Khan Mohammed. Captured by DEA and Afghan Counternarcotics Police in Nangarhar Province in October 2006, Khan Mohammed was convicted in May 2008 in U.S. District Court in Washington, DC. He received two life sentences for selling narcotics and intending to use the proceeds to purchase rockets to attack the U.S. military base in Jalalabad, Afghanistan.

Indicting Haji Juma Khan and coordinating his arrest and expulsion from Indonesia on October 23, 2008. He was placed into DEA custody and transported to New York, where he awaits trial. He is one of the world's most significant heroin and opium traffickers, who provided direct support to

the Taliban from his drug trafficking revenue.

The Terrorism Investigations Unit worked in Afghanistan to capture Haji Bashir Noorzai, who was the world's largest heroin trafficker and one of the five original founding members of the Taliban Ruling Shura in Kabul. He was convicted in the Southern District of New York and is now serving a life sentence.

In December 2009, a Terrorism Investigations Unit investigation confirmed that al-Qaida is becoming increasingly involved with the drug trade, when Federal prosecutors in New York charged three people with ties to al-Qaida and al-Qaida in the Islamic Maghreb, AQIM, in Africa with narco-terrorism for conspiring to transport 500 kilograms of cocaine belonging to the FARC across Africa and into Europe.

This case marks the first time that associates of al-Qaida have been charged with narco-terrorism offenses, as well as the first prosecution of crimes related to drug trafficking in support of terrorism in sub-Saharan Africa.

Based on the success of these investigative units and the conditions in Afghanistan, I believe it is important to stand up a new team to focus directly on Afghanistan.

By providing funding for an Afghanistan team, the existing Terrorism Investigations Unit would be able to continue their work in Africa on al-Qaida-linked organizations.

An Afghanistan team would also expand the Terrorism Investigations Unit's operations—currently focused in the South and East—to throughout the country.

The contacts and leads they discover have produced, and will produce, collateral intelligence for American and coalition forces. I am confident that a new unit will produce additional indictments and convictions of Taliban members and others for narco-terrorism.

Our findings have clearly identified that this is a program that works. Simply put: Narco-terrorism investigations have proven to be an effective tool in Afghanistan. So it should be a priority for funding and action.

There's another area that should be a priority—helicopters. Helicopters are essential to this fight here's why:

After all our efforts—after the recruiting and training of Afghan police, after developing intelligence, after following leads—the times comes to lawfully arrest traffickers and seize their narcotics.

This requires a large force of law-enforcement personnel, supported by troops, and the counternarcotics team must be transported to the target location by helicopter.

Afghanistan is unlike most countries in the world in this respect. It is a vast country, with a challenging geography, and little in the way of passable roads. So helicopters are essential.

Unfortunately, many times there are no helicopters available, so the mission has to be scrubbed.

The Drug Caucus looked into this. We found that it is critical to have dedicated helicopters for counternarcotics operations in Afghanistan. For example, last October Michael Braun, former Chief of Operations for DEA, told the Drug Caucus that:

The DEA's counter narco-terrorism operations and vitally important intelligence gathering missions are routinely delayed, often for several days, because the DEA lacks its own organic helicopter assets in Afghanistan."

The Government Accountability Office reported to Congress in March of this year that:

Defense and DEA officials stated that air-lift requirements have grown beyond what was originally envisaged for the Air Interdiction Unit, and they also stated they expected these requirements to grow further as DEA expands into forward operating bases

Attorney General Eric Holder told me this when I asked him on March 22, at the Judiciary Committee about the lack of air assets for counternarcotics operations:

The most significant factor we face in Afghanistan is helicopter lift. DEA must have adequate helicopter lift capacity that is night capable and flown by veteran pilots.

Recently, the Drug Caucus learned the following:

There are funds available, allocated by Congress and provided to the State Department, for supporting other civilian agencies operating in Afghanistan. These funds can be used for to obtain dedicated helicopters for counternarcotics missions.

There are retired Navy Sikorsky helicopters mothballed at Davis-Monthan Air Force Base and elsewhere available at no cost.

The State Department has a contract with Sikorsky to refurbish up to 110 S-61 helicopters over the next 5 years.

It will take approximately 9 months to refurbish these helicopters and get them to Afghanistan.

When I learned that we have these helicopters, a signed contract with Sikorsky, and funds for the retrofit the helicopters were all available to meet the needs of the counternarcotics mission I thought great, "When will they be in country?"

Unfortunately, I cannot get an answer to that question because there has been a hold placed on the final decision regarding these helicopters. A hold that has lasted several months. This is unacceptable. Time is of the essence. These funds must be used now to prepare these helicopters to get them to Afghanistan by next spring.

I ask for the President and the Secretary of State's full support on this matter so, for the first time, there will be helicopters dedicated to U.S.-led counternarcotics operations in Afghanistan.

Drug trafficking in Afghanistan provides more than 90 percent of the world's opium.

It fuels the insurgency, corrupts public officials, and undermines political stability and the rule of law.

If we are to protect coalition forces from an influx of weapons now, and leave Afghanistan on firm footing, we must put an end to this relationship between terrorism and drugs.

In September 2009, the executive director of the United Nations Office of Drugs and Crime, Antonio Maria Costa had this to say:

Like never before, the fates of counter-narcotics and counter-insurgency are inextricably linked.

On March 16 of this year at the Senate Armed Services Committee hearing General David Petraeus testified that:

Another major component of our strategy is to disrupt narcotics trafficking, which provides significant funding to the Taliban insurgency. This drug money has been the 'oxygen' in the air that allows these groups to operate.

What we have learned is that heroin is a weapon for the insurgents and the terrorists.

It kills people. It ruins lives. It leads to criminal behavior.

And it corrupts governments, putting a terrible burden and strain on society.

When he learned that a large shipment of heroin was heading to American cities, convicted Afghan narco-terrorist Khan Mohammed was recorded on a surveillance tape saying:

Good, may God turn all the infidels into dead corpses . . . whether it is by opium or by shooting, this is our common goal.

There can be no question that the drug trade in Afghanistan is inextricably linked to terrorism. So, the drug trade there must be met with the same robust response, the same level of resolve, as our efforts against the insurgency.

Bottom line: If we ignore the drug problem in Afghanistan we will fail in Afghanistan.

Mr. President, this report may be found at <http://drugcaucus.Senate.gov>.

I thank the Chair.

SEC FOIA EXEMPTION

Mr. KAUFMAN. Mr. President, I rise to discuss a provision in the Dodd-Frank Wall Street Reform and Consumer Protection Act, section 929I, that is attracting a lot of attention today, and for good reason. The SEC cited it yesterday in seeking to block a Freedom of Information Act, FOIA, action brought by Fox Business News.

Press freedom is a subject that is very important to me and many other Members of Congress, and one which our country is keen to stress as important around the world. It would be ironic if the Dodd-Frank bill substantially diminished our own press freedoms. This is particularly the case in the aftermath of a devastating financial crisis when we now hope that greater transparency into our financial institutions, markets and regulatory agencies will help ensure that systemic risks do not emerge and grow undetected.

Section 929I deals with “records of registered persons,” that is, information received by the SEC in the course of its oversight duties with respect to any person or entity registered under the Securities and Exchange Act and other applicable laws, such as the Investment Company Act and Investment Advisers Act. I am concerned that this provision has been written far too broadly. Indeed, it appears to have the effect of exempting from FOIA requests virtually all information received by the Securities and Exchange Commission from “registered persons.” An overbroad exclusion from public disclosure undermines the strong public interest in transparency. Narrowing or eliminating this new exclusion should be at the top of the list for a bill designed to amend the Dodd-Frank Act.

Section 929I reads in part:

The Commission shall not be compelled to disclose records or information obtained pursuant to section 17(b), or records or information based upon or derived from such records or information, if such records or information have been obtained by the Commission for use in furtherance of the purposes of this title, including surveillance, risk assessments, or other regulatory and oversight activities.

Let me repeat: The Commission shall not be compelled to disclose records or information if such records or information have been obtained by the Commission for use in furtherance of the purposes of this title, including surveillance, risk assessments or other regulatory and oversight activities.

This provision is overly broad. I understand how it could help the SEC obtain information from the firms they examine when those firms are reluctant to turn over proprietary information that might later be subject to FOIA requests. But FOIA already has exemptions in it to deal with such concerns. If those exemptions need to be broadened, we should have done so with a scalpel.

For example, the provision fails to differentiate between proprietary information that might be turned over to the SEC during an examination, financial information a firm may simply prefer not to provide, and market data collected through standard surveillance activities by the Commission. It is not difficult to imagine why hedge funds and other trading firms would be reluctant to turn over proprietary algorithms: Quite simply, those computer programs likely contain loads of historical data, analysis, pattern recognition code and other tools that comprise a trading firm’s “special sauce.” Just as Coca-Cola and Heinz 57 have strong motivations to keep their recipes a secret, and have done so for generations, so too do proprietary traders have strong incentives to guard their carefully written algorithms.

But data collected by the SEC as part of everyday surveillance activities, including the data set to be collected pending the Commission’s approval of “large trader” tagging and a consolidated audit trail, should fall into an entirely different category.

And as the Financial Crisis Inquiry Commission and the Senate’s Permanent Subcommittee on Investigations have learned, financial companies are often reluctant to turn over extensive financial records that permit the public to better understand complex financial transactions and accounting practices.

As written, the exemption throws a cloak over all information received by the Commission from the entities the SEC regulates. It is too broad; it does not serve the public interest; it is not consistent with the general goal of greater transparency, as President Obama has emphasized both with respect to FOIA and financial regulatory issues, and it should be reevaluated by the SEC and Congress.

As I understand it, the SEC has a legitimate concern now that it must examine thousands of additional entities, including private equity and hedge funds that must for the first time must register under the Investment Advisers Act. In the course of those examinations, a hedge fund may be reluctant to turn over information of a proprietary nature because it is concerned that despite the existing exemptions written into the FOIA statute, the hedge fund cannot be certain whether a judge will uphold the exemption. And so the hedge fund will be reluctant to turn over the information, and the SEC examiner may be stymied from receiving it unless he or she turns the matter into an enforcement action.

It may be that Congress needs to give the SEC some additional ability to compel documents in such a situation, or perhaps provide some narrowly tailored clarification to a FOIA exemption for financial information of a particularly sensitive proprietary nature. But this provision as signed into law drops a net over such information that is far too wide.

Indeed, in writing such a broad provision, Congress may have inadvertently encouraged registered entities to seek even more FOIA protection before cooperating with the SEC. That is because the logical corollary of protecting confidential information is to insist on a wider scope of confidential information, which, in turn, further erodes both our press freedoms and market transparency.

In addition, the SEC may be legitimately concerned that it could be required to turn over sensitive proprietary information in response to a third-party subpoena issued in litigation to which the SEC is not even a party. Once again, however, Congress should carefully examine the appropriate contours of third-party discovery requests to the SEC. It should not categorically exclude information held by the SEC based only upon its status as having been obtained from a “registered person.”

Over the last few years, the credibility of our markets has been damaged. Only transparency can best restore that credibility; any exemptions

to transparency should hence be narrowly crafted. Section 929I needs a “do-over.” In the coming weeks, I hope to work with the SEC and other Senators to craft a more reasonable approach that satisfies the legitimate concerns of the SEC without sacrificing the goals of transparency and public accountability.

NATIONAL URBAN LEAGUE’S 100TH ANNIVERSARY

Ms. LANDRIEU. Mr. President, I rise today to ask my colleagues to join me in recognizing the National Urban League on celebrating 100 years of enabling African Americans to secure economic self-reliance, parity, power, and civil rights.

The National Urban League is a historic civil rights organization dedicated to economic empowerment in order to elevate the standard of living in historically underserved urban communities. Founded in 1910 and headquartered in New York City, the National Urban League spearheads the efforts of its local affiliates through the development of programs, public policy research, and advocacy. Today, there are more than 100 local affiliates in 36 States and the District of Columbia, providing direct services that impact and improve the lives of more than 2 million people nationwide.

This week, some of the Nation’s foremost power brokers, celebrities, corporate leaders, and activists are convening at the Washington Convention Center in the Nation’s Capital to celebrate the 100th anniversary of the National Urban League. The Centennial Conference marks the completion of the first century of leadership and service and now prepare for a new civil rights strategy to meet the new challenges to equal opportunity in America.

The National Urban League employs a five-point approach to provide economic empowerment, educational opportunities, and the guarantee of civil rights for African Americans: education and youth empowerment, which ensures the education of all children by providing access to early childhood literacy, aftercare programs and college scholarships; economic empowerment, which invests in the financial literacy and employability of adults through job training, home ownership, and entrepreneurship; health and quality of life empowerment, which promotes community wellness through a focus on prevention, including fitness, healthy eating, and access to affordable healthcare; civic engagement and leadership empowerment, which encourages all people to take an active role to improve quality of life through participation in community service projects and public policy initiatives; and civil rights and racial justice empowerment, which guarantees equal participation in all facets of American society through proactive public policies and community-based programs.

I ask that my colleagues join me in congratulating the National Urban League on its 100th anniversary and in wishing them the best for years to come.

ADDITIONAL STATEMENTS

TRIBUTE TO THOMAS L. CHARLTON

• Mr. BURRIS. Mr. President, as a longtime public servant, I have always had the utmost regard for individuals who dedicate themselves to a greater cause.

Among these, educators stand out in my mind as especially worthy of thanks and recognition.

I often say that educators have an eternal impact on our country's youth.

From primary school through graduate school, these dedicated men and women are charged with shaping the next generation of Americans.

They provide our Nation's young people with the inspiration to achieve, and the tools to succeed in a global marketplace.

So today, I honor one such educator, Professor Thomas L. Charlton—a brilliant scholar, a remarkable advocate for the values of higher learning, and an avid student of history in his own right.

Professor Charlton began his career in 1962, at San Antonio College, where he taught as many as five classes at one time.

He developed a passion for teaching that would guide him for the rest of his career. After he earned his Ph.D. in 1969 at the University of Texas at Austin, he became a professor of history at Baylor University.

At Baylor, he founded the Institute for Oral History. And over the next quarter century, he presided over its ascension as one of the top oral history research centers in the country.

He pushed for excellence at every turn, and he dedicated himself to the preservation of our rich past.

In 1981, Dr. Charlton authored a landmark academic text on the oral history of Texas, entitled "Oral History for Texans."

The following year, he became founding president of the Texas Oral History Association and saw his national reputation grow by leaps and bounds.

But for all the acclaim and success that he enjoyed, those who know Professor Charlton will be quick to point out that he is never happier than when he is out in the field with a group of his graduate students.

He has never lost the passion for teaching that he discovered in the early days of his career—a passion which has guided him to this day.

In the last two decades, Professor Charlton served the Baylor community as vice provost for research, and later as director of the Texas Collection library.

And after nearly half a century of dedicated service at the college level,

he announced his retirement earlier this year.

Mr. President, today I honor the tremendous contributions Thomas Charlton has made during his remarkable career.

I celebrate the achievements that have marked his tenure and the lives he touched at every step along the way.

But even as we wish him a happy retirement and recognize the indelible mark he has left on Baylor University, I cannot help but reflect that, among his students, his peers, and all who share his dedication, he will be sorely missed.

I yield the floor.●

TRIBUTE TO MICHAEL J. SULICK

• Mrs. FEINSTEIN. Mr. President, I wish to recognize and pay tribute to Mr. Michael J. Sulick, Director of the National Clandestine Service of the Central Intelligence Agency, who will retire tomorrow, July 30, 2010. Mr. Sulick's career spans over 30 years in the CIA during which he distinguished himself as a patriot, leader, and friend of the U.S. Senate. Mike Sulick also served as a marine in Vietnam from 1968 to 1969.

It is a rare opportunity to pay tribute publicly to one of the men and women who serve beyond the front lines, working in secret to protect and serve the Nation. Having "come in from the cold," I am pleased to be able to say a few words about Mike.

A New York native, Mr. Sulick graduated from Fordham University in 1971 with a B.A. degree in Russian language/literature and continued at the University to earn a M.A. in Russian language/literature in 1972. In 1977, he received a doctorate in comparative literature from City University of New York, NY.

During his career, Mike served more than 11 years abroad in Asia, Latin America, Poland, and Russia, where he was able to use his language fluency of Spanish, Polish, and Russian. In headquarters assignments, he served as Chief of Liaison in the Office of Congressional Affairs, Chief of Central Eurasia Division, Chief of Counterintelligence, and as the Deputy Director and later as Director of the National Clandestine Service.

Mr. Sulick retired from the CIA as the Deputy Director of the National Clandestine Service in 2004. In 2007, Mike heeded the call of service when he was asked by the CIA Director, GEN Michael Hayden, and his Deputy Director, Steve Kappes, to rejoin the Agency. He has been the head of the clandestine service for the past 3 years.

In this capacity, he had frequent interaction with Senators and staff of the Senate Select Committee on Intelligence. His professionalism, mature judgment, sage advice, and interpersonal skills earned him the respect and confidence of the committee. His sound judgment, courage, and candor

also directly contributed to his successful representation of the CIA's interests before the committee and Congress.

Throughout his career, Mike Sulick demonstrated a profound commitment to our Nation, a selfless service to the CIA, a deep concern for Agency officers and their families, and a commitment to excellence. Mike is a consummate professional whose performance, in over 30 years of service, has personified those traits of courage, competency, and integrity that our Nation has come to expect and so desperately needs from its professional intelligence officers.

Mr. President, I ask my colleagues to join me in thanking Mr. Mike Sulick for his honorable service to the Central Intelligence Agency and the people of the U.S. and also thanking Mike's wife Shirley for her support and understanding, as well as her sacrifices in allowing Mike to selflessly commit himself to protecting our Nation.

We wish Mike and Shirley Sulick all the best in the future.●

SPRINGFIELD BAPTIST CHURCH

• Mr. ISAKSON. Mr. President, today I honor in the RECORD Springfield Baptist Church in Greensboro, GA.

On August 15, 2010, the Georgia Historical Society will place a permanent marker recognizing this historic church as the oldest African-American church in Greene County. Established in 1864, Springfield Baptist Church has been a place of faith, hope, and dreams for its members for almost 150 years.

This isn't the first time that Springfield Baptist Church has been honored for its important place in Greene County's history. On September 8, 1987, the church was listed on the National Register of Historic Places.

It gives me a great deal of pleasure and it is a privilege to recognize the Springfield Baptist Church and its contributions to Greene County. I congratulate Pastor James C. Tazel, Jr. and the entire congregation on this historic occasion.●

TRIBUTE TO PIUS BANNIS

• Mr. LEMIEUX. Mr. President, today I honor a true American hero, Mr. Pius Bannis.

Mr. Bannis is the field office director for U.S. Citizenship and Immigration Services stationed in the U.S. Embassy in Port-au-Prince, Haiti. During the darkest moments of the devastating earthquake of January 12, 2010, that destroyed Port-au-Prince, Haiti, Mr. Bannis bravely performed his duties.

As we know, children are the most vulnerable victims of any disaster—let alone the tragic January 12, 2010, earthquake causing devastation of monumental proportions in Haiti. In the immediate aftermath of this tragedy, Mr. Bannis selflessly worked around the clock to ensure hundreds of orphaned Haitian children were removed from harm's way and placed in a

safe environment with loving American families. It was during these very emotional moments Mr. Bannis heroically united families but never wavered from his sworn duty of upholding the law as a field office director for U.S. Citizenship and Immigration Services. His heroic actions will afford countless orphaned children an opportunity to build a better life in the wake of this tragedy.

Today I wish to recognize Mr. Bannis' extraordinary leadership. I commend him and his colleagues of the U.S. Citizenship and Immigration Services for their selfless sacrifices and service to protect the most vulnerable victims of the January 2010 earthquake in Haiti.●

REMEMBERING REAR ADMIRAL LEROY COLLINS, JR.

● Mr. LEMIEUX. Mr. President, today I wish to give special recognition to the life and work of a friend and fellow Floridian, former U.S. Navy RADM LeRoy Collins, Jr. I had the pleasure of working closely with Admiral Collins during my time with the Governor's office and more recently on federal issues improving health care for veterans. He was a fifth-generation Floridian who came from a long line of public servants and will always be remembered for his commitment to the military community and our State.

A native of Tallahassee, FL, LeRoy Collins received his commission from the U.S. Naval Academy in June 1956 and began a long career with the Navy. His first tour was aboard the amphibious transport USS *Calvert*, followed by a Submarine Officer's Basic Course in Groton, CT. Later, he served aboard the submarine USS *Chivo*. Through hard work, dedication and sacrifice, LeRoy earned the rank of rear admiral.

Admiral Collins served as an analyst for Naval Intelligence in Washington, DC and as a ballistic missile weapons officer aboard the nuclear-powered ballistic missile submarine USS *James Madison*. After a brief tour working missile test operations at Naval Ordnance Training Unit in Cape Canaveral, he transferred to the Navy Reserve in 1966.

While a naval reservist, Admiral Collins served as commanding officer of the coastal minesweeper USS *Thrush* and later as commander of various Navy Reserve submarine units. During his time, he was the Navy's liaison to the Florida National Guard and also commanding officer of the Navy liaison unit at U.S. Readiness Command, headquartered at MacDill Air Force Base, FL.

The admiral served as Commander, Naval Reserve Readiness Command, Region 8 and later as Deputy Chief of Naval Operations (Reserve) for Logistics, Pentagon, until his retirement from the Navy Reserve as a two-star rear admiral in October, 1990.

Throughout his service in the Navy Reserve, Admiral Collins was also a

businessman. He spent time with the Florida Power & Light Company and IBM. He was the founding president of Financial Transaction Systems, Inc., and president of Telecredit Service Center, Inc. In addition, he served as president of Dynamic Realty of Tampa, Inc., was chairman of Gateway Holdings, Inc., and served as president of the Armed Forces Financial Network.

I wish to take this opportunity to pay tribute to Admiral Collins, a pillar of our great State, for his service to our Nation and his commitment to helping Florida's veterans. His work for Florida's veterans, their families and survivors in improving their health and well-being will be greatly missed.

Admiral Collins served his country diligently, with pride, and with honor. On behalf of all Floridians, and specifically the nearly 1.8 million veterans who call Florida home, I thank him for his service and know he will be greatly missed.●

TRIBUTE TO GEORGE AUSTIN HAY

● Mr. SPECTER. Mr. President, I congratulate and honor George Austin Hay on his recent retirement as a multimedia specialist for the U.S. Department of Transportation, DOT. As a former resident of, and originally from, Johnstown, PA, Mr. Hay's 37 years with the Federal Highway Administration capped an extraordinary career of 55 years of public service with the Federal Government. He has distinguished himself as a truly dedicated public servant.

Mr. Hay joined the Department of Defense in 1955 as a motion picture producer and casting director at the Department's Army Pictorial Center in Astoria, New York—the most expansive government film facility and, at that time, the fourth largest studio and sound stage in the world. There he produced Army training films, Government documentaries, and Defense Department short subjects. While employed at the Department of Defense, Mr. Hay had the privilege of working with some of Hollywood's best, including Paul Newman, Edward R. Murrow, Ed Asner, Henry Fonda, Gene Hackman, Dick Cavett, and Ronald Reagan, all of whom Mr. Hay hired for military training films. He also developed a friendship with Walter Cronkite.

In 1973, Mr. Hay was called to Washington to fill the shoes of the retiring chief of the Federal Highway Administration's photographic section. While at the Federal Highway Administration, Mr. Hay produced his crowning achievement in film: "Highways of History." This film narrative depicts the history of transportation in the United States. The film has been shown on television and has been distributed to high schools and universities with an estimation of more than 1 million viewers over the last 30 years.

As a multimedia specialist, Mr. Hay was involved with an extensive photo and illustration search program. He

has researched information to describe hundreds of selected images showing excellence in highway design, outstanding bridge structures, and multimodal transportation. Mr. Hay was also responsible for historical exhibits, and was widely known for his wealth of knowledge about the Federal Highway Administration's history, as well as the history of America's roadways. As an integral part of the publishing and visual communications team, he has written numerous fascinating articles that chronicle the development of our modern transportation system.

In his spare time, Mr. Hay has also appeared as an extra in more than 100 movies. His film credits include walking beside Cary Grant in the Alfred Hitchcock masterpiece, "North by Northwest." Today, Mr. Hay continues to act as an extra, averaging two films per year.

Throughout his career, Mr. Hay's outstanding efforts have enhanced DOT's public image by bringing positive transportation messages to citizens across the Nation. His multimedia products have depicted significant historical events and garnered widespread attention, as well as notable commendations. His fascinating articles, films, and exhibits have chronicled the development of our modern transportation system. His work demonstrates an extraordinary ability to harness knowledge about DOT's history, as well as the history of America's transportation system. Mr. Hay has provided an invaluable service for many years, and his achievements will have a lasting legacy.●

GANN VALLEY, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Gann Valley, SD. Founded in 1885, the town of Gann Valley will celebrate its 125th anniversary this year.

Located in Buffalo County, Gann Valley is a small yet steadfast community that embodies the spirit of South Dakota. Gann Valley's proximity to the Missouri River has made this town a great location for outdoor adventures, such as fishing, camping, and boating. Gann Valley has continued to be a strong reflection of South Dakota's greatest values and traditions.

Gann Valley will commemorate the 125th anniversary of its founding with a celebration held from July 30 through August 1, featuring events such as a wagon train, parade, buffalo chip throwing, rooster roping, live minnow races, and a street dance. I would like to offer my congratulations to the citizens of Gann Valley on this milestone anniversary and wish them continued prosperity in the years to come.●

TRIBUTE TO ROBERT BERRY

● Mr. THUNE. Mr. President, today I wish to recognize Robert Berry, an intern in my Aberdeen, SD, office, for all of the hard work he has done for me,

my staff, and the State of South Dakota over the past several months.

Robert is a graduate of Aberdeen Central High School in Aberdeen, SD. Currently, he is attending the University of Minnesota, where he is majoring in political science. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Robert for all of the fine work he has done and wish him continued success in the years to come.●

TRIBUTE TO AIMEE CORNELIUS

● Mr. THUNE. Mr. President, today I wish to recognize Aimee Cornelius, an intern in my Aberdeen, SD, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several months.

Aimee is a graduate of Aberdeen Central High School in Aberdeen, SD. Currently, she is attending North Central University, where she is majoring in journalism. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Aimee for all of the fine work she has done and wish her continued success in the years to come.●

REPORT RELATIVE TO THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE ACTIONS OF CERTAIN PERSONS TO UNDERMINE THE SOVEREIGNTY OF LEBANON OR ITS DEMOCRATIC PROCESSES AND INSTITUTIONS—PM 65

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency declared with respect to the actions of certain persons to undermine the sovereignty of Lebanon or its democratic processes and institutions is to continue in effect beyond August 1, 2010.

While there have been some recent positive developments in the Syrian-Lebanese relationship, continuing arms transfers to Hizballah that include increasingly sophisticated weapons sys-

tems serve to undermine Lebanese sovereignty, contribute to political and economic instability in the region, and continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared on August 1, 2007, to deal with that threat and the related measures adopted on that date to respond to the emergency.

BARACK OBAMA.

THE WHITE HOUSE, July 29, 2010.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 9:33 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4899. An act making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes.

At 10:08 a.m., a message from the House of Representatives, delivered by Ms. Brandon, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1796. An act to amend the Consumer Product Safety Act to require residential carbon monoxide detectors to meet the applicable ANSI/UL standard by treating that standard as a consumer product safety rule, to encourage States to require the installation of such detectors in homes, and for other purposes.

H.R. 1875. An act to establish the Emergency Trade Deficit Commission.

H.R. 2480. An act to improve the accuracy of fur product labeling, and for other purposes.

H.R. 4658. An act to authorize the conveyance of a small parcel of National Forest System land in the Cherokee National Forest and to authorize the Secretary of Agriculture to use the proceeds from that conveyance to acquire a parcel of land for inclusion in that national forest, and for other purposes.

H.R. 4692. An act to require the President to prepare a quadrennial National Manufacturing Strategy, and for other purposes.

H.R. 5156. An act to provide for the establishment of a Clean Energy Technology Manufacturing and Export Assistance Fund to assist the United States businesses with exporting clean energy technology products and services.

H.R. 5669. An act to direct the Secretary of Agriculture to convey certain Federally owned land located in Story County, Iowa.

H.R. 5751. An act to provide for the establishment of a task force that will be responsible for investigating cases referred to the Attorney General under the Lobbying Disclosure Act of 1995, and for other purposes.

H.R. 5827. An act to amend title 11 of the United States Code to include firearms in the types of property allowable under the alternative provision for exempting property from the estate.

H.R. 5872. An act to provide adequate commitment authority for fiscal year 2010 for guaranteed loans that are obligations of the General and Special Risk Insurance Funds of the Department of Housing and Urban Development.

H.R. 5874. An act making supplemental appropriations for the United States Patent

and Trademark Office for the fiscal year ending September 30, 2010, and for other purposes.

H.R. 5875. An act making emergency supplemental appropriations for border security for the fiscal year ending September 30, 2010, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2765) to amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments and certain foreign judgments against the providers of interactive computer services.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 5610) to provide a technical adjustment with respect to funding for independent living centers under the Rehabilitation Act of 1973 in order to ensure stability for such centers.

The message also announced that pursuant to section 201(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6431), and the order of the House of January 6, 2009, the Speaker appoints the following member on the part of the House of Representatives to the Commission on International Religious Freedom: Upon the recommendation of the Minority Leader: Ms. Nina Shea of Washington, DC, for a two-year term ending May 14, 2012, to succeed herself.

ENROLLED BILLS SIGNED

At 11:54 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1749. An act to amend title 18, United States Code, to prohibit the possession or use of cell phones and similar wireless devices by Federal prisoners.

S. 1789. An act to restore fairness to Federal cocaine sentencing.

H.R. 2765. An act to amend title 28, United States Code, to prohibit recognition and enforcement of foreign defamation judgments and certain foreign judgments against the providers of interactive computer services.

H.R. 5610. An act to provide a technical adjustment with respect to funding for independent living centers under the Rehabilitation Act of 1973 in order to ensure stability for such centers.

At 3:33 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5822. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2011, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 307. Concurrent resolution providing for a conditional recess or adjournment of the Senate.

H. Con. Res. 308. Concurrent resolution providing for a conditional adjournment of the House of Representatives.

ENROLLED BILL SIGNED

At 5:45 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4380. An act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. INOUE).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3663. A bill to promote clean energy jobs and oil company accountability, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5822. An act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2011, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on July 29, 2010, she had presented to the President of the United States the following enrolled bills:

S. 1749. An act to amend title 18, United States Code, to prohibit the possession or use of cell phones and similar wireless devices by Federal prisoners.

S. 1789. An act to restore fairness to Federal cocaine sentencing.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-6861. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Mevinphos; Proposed Data Call-in Order for Pesticide Tolerance" (FRL No. 8835-7) received in the Office of the President of the Senate on July 27, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6862. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Kiwifruit Grown in California; Order Amending Marketing Order No. 920" (Docket Nos. AO-FV-08-0174; AMS-FV-08-0085; FV08-920-3) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6863. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pistachios Grown in California, Arizona, and New Mexico; Modification of the

Aflatoxin Regulations" (Docket Nos. AMS-FV-10-0031; FV10-983-1 IR) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6864. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, OR; Suspension of Reporting and Assessment Requirements" (Docket Nos. AMS-FV-10-0054; FV10-924-2 IR) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6865. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Kiwifruit Grown in California; Changes to District Boundaries" (Docket Nos. AMS-FV-08-0085; FV08-920-3 IR) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6866. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 2009-10 Crop Natural (Sun-Dried) Seedless Raisins" (Docket Nos. AMS-FV-09-0075; FV10-989-1 FIR) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6867. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "National Organic Program; Amendments to the National List of Allowed and Prohibited Substances (Crops)" ((RIN0581-AC93)(Docket Nos. AMS-NOP-09-0081; TM-09-04 FR)) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6868. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Nectarines and Peaches Grown in California; Changes in Handling Requirements for Fresh Nectarines and Peaches" (Docket Nos. AMS-FV-09-0090; FV10-916/917-1 FIR) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6869. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Irish Potatoes Grown in Colorado; Relaxation of Handling Regulation for Area No. 3" (Docket Nos. AMS-FV-08-0115; FV09-948-2 FIR) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6870. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Irish Potatoes Grown in Washington; Temporary Change to the Handling Regulations and Reporting Requirements" (Docket Nos. AMS-FV-10-0052; FV10-946-1 IR) received in the Office of the President of the Senate on

July 28, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6871. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "National Sheep Industry Improvement Center" (Docket No. AMS-LS-08-0064) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6872. A communication from the Administrator, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Special Evaluation Assistance for Rural Communities and Households Program" ((7 CFR Part 1774)(RIN0572-AC14)) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6873. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting the report of (4) officers authorized to wear the insignia of the grade of major general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-6874. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the inventory lists for the Departments of the Army, Navy, and Air Force, as well as U.S. Transportation Command, U.S. Special Operations Command, Washington Headquarters Services, and the other defense agencies; to the Committee on Armed Services.

EC-6875. A communication from the Secretary of the Army, transmitting, pursuant to law, an annual report relative to recruitment incentives; to the Committee on Armed Services.

EC-6876. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Vice Admiral Jeffrey A. Wieringa, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC-6877. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Vice Admiral Melvin G. Williams, Jr., United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC-6878. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Inflation Adjustment of Acquisition-Related Thresholds" (DFARS Case 2009-D003) received in the Office of the President of the Senate on July 29, 2010; to the Committee on Armed Services.

EC-6879. A communication from the Assistant Secretary of the Navy (Research, Development and Acquisition), transmitting, pursuant to law, a report relative to the determination and findings for authority to award a single source task or delivery order contract; to the Committee on Armed Services.

EC-6880. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency that was declared in Executive Order 12947 with respect to terrorists who threaten to disrupt the Middle East peace process; to the Committee on Banking, Housing, and Urban Affairs.

EC-6881. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S.

exports to Ireland; to the Committee on Banking, Housing, and Urban Affairs.

EC-6882. A communication from the Assistant Director for Policy, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Lebanon Sanctions Regulations" (31 CFR Part 549) received in the Office of the President of the Senate on July 29, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-6883. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Registration of Mortgage Loan Originators" (RIN1557-AD23) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-6884. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Containment Isolation Provisions for Fluid Systems" (Regulatory Guide 1.141, Revision 1) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Environment and Public Works.

EC-6885. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Methods for Measuring Effective Dose Equivalent from External Exposure" (Regulatory Guide 8.40) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Environment and Public Works.

EC-6886. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Washington: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL No. 9181-8) received in the Office of the President of the Senate on July 27, 2010; to the Committee on Environment and Public Works.

EC-6887. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Arizona State Implementation Plan, Maricopa County Air Quality Department" (FRL No. 9180-1) received in the Office of the President of the Senate on July 27, 2010; to the Committee on Environment and Public Works.

EC-6888. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Determination of Attainment for PM-10; Fort Hall PM-10 Nonattainment Area, Idaho" (FRL No. 9180-2) received in the Office of the President of the Senate on July 27, 2010; to the Committee on Environment and Public Works.

EC-6889. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Minnesota" (FRL No. 9182-2) received in the Office of the President of the Senate on July 27, 2010; to the Committee on Environment and Public Works.

EC-6890. A communication from the Director of Human Resources, Environmental Protection Agency, transmitting, pursuant to law, (3) three reports relative to vacancies in the Environmental Protection Agency, received in the Office of the President of the Senate on July 28, 2010; to the Committee on Environment and Public Works.

EC-6891. A communication from the Chief of the Endangered Species Listing Branch,

Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Limnanthes floccosa* ssp. *grandiflora* (Large-Flowered Woolly Meadowfoam) and *Lomatium cookii* (Cook's Lomatium)" (RIN1018-AW21) received in the Office of the President of the Senate on July 27, 2010; to the Committee on Environment and Public Works.

EC-6892. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Additives Permitted in Feed and Drinking Water of Animals; Ammonium Formate" (Docket No. FDA-2008-F-0151) received in the Office of the President of the Senate on July 28, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-6893. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Food and Drug Administration's report relative to the Backlog of Postmarketing Requirements and Postmarketing Commitments; to the Committee on Health, Education, Labor, and Pensions.

EC-6894. A communication from the Chairman, Merit System Protection Board, transmitting, pursuant to law, a report entitled "A Call to Action: Improving First-Level Supervision of Federal Employees"; to the Committee on Homeland Security and Governmental Affairs.

EC-6895. A communication from the Acting Director, Office of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, an annual report relative to the federal work force for fiscal year 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-6896. A communication from the Policy Analyst, Bureau of Immigration and Customs Enforcement, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Electronic Signature and Storage of Form I-9, Employment Eligibility Verification" (RIN1653-AA47) received in the Office of the President of the Senate on July 28, 2010; to the Committee on the Judiciary.

EC-6897. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Florida Advisory Committee; to the Committee on the Judiciary.

EC-6898. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Texas Advisory Committee; to the Committee on the Judiciary.

EC-6899. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relative to the Department's activities regarding civil rights era homicides; to the Committee on the Judiciary.

EC-6900. A communication from the Secretary of Veterans Affairs, transmitting proposed legislation relative to ending homelessness among Veterans and establishment of a nonprofit research and education corporation at the VA's central office; to the Committee on Veterans' Affairs.

By Mr. LEAHY, from the Committee on Appropriations, without amendment:

S. 3676. An original bill making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2011, and for other purposes (Rept. No. 111—237).

By Mr. DURBIN, from the Committee on Appropriations, without amendment:

S. 3677. An original bill making appropriations for financial services and general government for the fiscal year ending September 30, 2011, and for other purposes (Rept. No. 111—238).

By Mr. LEAHY, from the Committee on the Judiciary, with amendments:

S. 3397. A bill to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

John F. Walsh, of Colorado, to be United States Attorney for the District of Colorado for the term of four years.

William J. Ihlenfeld, II, of West Virginia, to be United States Attorney for the Northern District of West Virginia for the term of four years.

John William Vaudreuil, of Wisconsin, to be United States Attorney for the Western District of Wisconsin for the term of four years.

Mark Lloyd Ericks, of Washington, to be United States Marshal for the Western District of Washington for the term of four years.

Joseph Patrick Faughnan, Sr., of Connecticut, to be United States Marshal for the District of Connecticut for the term of four years.

Harold Michael Oglesby, of Arkansas, to be United States Marshal for the Western District of Arkansas for the term of four years.

Conrad Ernest Candelaria, of New Mexico, to be United States Marshal for the District of New Mexico for the term of four years.

By Mrs. FEINSTEIN for the Select Committee on Intelligence.

*James R. Clapper, of Virginia, to be Director of National Intelligence.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LUGAR (for himself and Mr. KERRY):

S. 3665. A bill to promote the strengthening of the private sector in Pakistan; to the Committee on Foreign Relations.

By Mr. CARDIN (for himself, Mrs. FEINSTEIN, and Mr. LIEBERMAN):

S. 3666. A bill to authorize certain Department of State personnel, who are responsible for examining and processing United States passport applications, to be able to access

REPORTS OF COMMITTEES

The following reports of committees were submitted:

certain Federal, State, and other databases, for the purpose of verifying the identity of a passport applicant, to reduce the incidence of fraud, to require the authentication of identification documents submitted by passport applicants, and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY (for himself, Mrs. LINCOLN, and Mr. FRANKEN):

S. 3667. A bill to amend part A of title IV of the Social Security Act to exclude child care from the determination of the 5-year limit on assistance under the temporary assistance to needy families program, and for other purposes; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. BAYH, and Mr. BOND):

S. 3668. A bill to require the Secretary of Health and Human Services to establish a demonstration program to award grants to, and enter into contracts with, medical-legal partnerships to assist patients and their families to navigate health-related programs and activities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY (for himself and Mr. FRANKEN):

S. 3669. A bill to increase criminal penalties for certain knowing violations relating to food that is misbranded or adulterated; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER (for himself and Mr. CASEY):

S. 3670. A bill to establish standards limiting the amounts of arsenic and lead contained in glass beads used in pavement markings; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER (for himself and Mr. GOODWIN):

S. 3671. A bill to improve compliance with mine and occupational safety and health law, empower workers to raise safety concerns, prevent future mine and other workplace tragedies, establish rights of families of victims of workplace accidents, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WICKER:

S. 3672. A bill to clarify and improve the payment of multiperil insurance claims, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. HUTCHISON (for herself, Mr. BURR, Mr. ENZI, Mr. WICKER, Mr. BOND, Ms. MURKOWSKI, and Mr. CORNYN):

S. 3673. A bill to amend the Patient Protection and Affordable Care Act to repeal certain limitations on tax health care benefits; to the Committee on Finance.

By Ms. STABENOW:

S. 3674. A bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of comprehensive Alzheimer's disease and other dementia diagnosis and services in order to improve care and outcomes for Americans living with Alzheimer's disease by increasing detection, diagnosis, care, and planning; to the Committee on Finance.

By Mr. WHITEHOUSE:

S. 3675. A bill to amend chapter 11 of title 11, United States Code, to address reorganization of small businesses; to the Committee on the Judiciary.

By Mr. LEAHY:

S. 3676. An original bill making appropriations for the Department of State, foreign operations, and related programs for the fiscal year ending September 30, 2011, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. DURBIN:

S. 3677. An original bill making appropriations for financial services and general government for the fiscal year ending Sep-

tember 30, 2011, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. LAUTENBERG:

S. 3678. A bill to improve mental health services for members of the National Guard and Reserve deployed in connection with a contingency operation, and for other purposes; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 601. A resolution to authorize testimony of Senate employees in a grand jury proceeding in the District of Columbia; considered and agreed to.

ADDITIONAL COSPONSORS

S. 749

At the request of Mr. COCHRAN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 749, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1553

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

At the request of Mr. GRASSLEY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1553, *supra*.

S. 3152

At the request of Mr. DEMINT, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 3152, a bill to repeal the Patient Protection and Affordable Care Act.

S. 3157

At the request of Mr. CASEY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3157, a bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to allow time for pensions to fund benefit obligations in light of economic circumstances in the financial markets of 2008, and for other purposes.

S. 3262

At the request of Mr. MENENDEZ, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 3262, a bill to amend the Internal Revenue Code of 1986 to provide that the volume cap for private activity bonds shall not apply to bonds for facilities for the furnishing of water and sewage facilities.

S. 3265

At the request of Mr. MCCAIN, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 3265, a bill to restore Second Amendment rights in the District of Columbia.

S. 3397

At the request of Ms. KLOBUCHAR, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 3397, a bill to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

S. 3434

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 3434, a bill to provide for the establishment of a Home Star Retrofit Rebate Program, and for other purposes.

S. 3437

At the request of Mrs. LINCOLN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3437, a bill to amend the Child Abuse Prevention and Treatment Act to establish grant programs for the development and implementation of model undergraduate and graduate curricula on child abuse and neglect at institutions of higher education throughout the United States and to assist States in developing forensic interview training programs, to establish regional training centers and other resources for State and local child protection professionals, and for other purposes.

S. 3447

At the request of Mr. AKAKA, the names of the Senator from New Mexico (Mr. UDALL) and the Senator from Virginia (Mr. WEBB) were added as cosponsors of S. 3447, a bill to amend title 38, United States Code, to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes.

S. 3474

At the request of Mr. FEINGOLD, the names of the Senator from Idaho (Mr. RISCHE), the Senator from Virginia (Mr. WARNER) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 3474, a bill to provide an optional fast-track procedure the President may use when submitting rescission requests, and for other purposes.

S. 3486

At the request of Mr. BROWN of Ohio, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 3486, a bill to amend title

38, United States Code, to repeal the prohibition on collective bargaining with respect to matters and questions regarding compensation of employees of the Department of Veterans Affairs other than rates of basic pay, and for other purposes.

S. 3570

At the request of Ms. MURKOWSKI, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3570, a bill to improve hydropower, and for other purposes.

S. 3571

At the request of Ms. MURKOWSKI, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3571, a bill to extend certain Federal benefits and income tax provisions to energy generated by hydropower resources.

S. 3583

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3583, a bill to amend title 38, United States Code, to increase flexibility in payments for State veterans homes, and for other purposes.

S. 3593

At the request of Mr. JOHANNIS, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 3593, a bill to require the Federal Government to pay the costs incurred by a State or local government in defending a State or local immigration law that survives a constitutional challenge by the Federal Government in Federal court.

S. 3628

At the request of Mr. SCHUMER, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 3628, a bill to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes.

S. 3637

At the request of Mr. KOHL, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3637, a bill to authorize appropriations for the Housing Assistance Council.

S. 3645

At the request of Mrs. MURRAY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3645, a bill to direct the Secretary of Education to establish and administer an awards program recognizing excellence exhibited by public school system employees providing services to students in pre-kindergarten through higher education.

S. RES. 586

At the request of Mr. FEINGOLD, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. Res. 586, a resolution sup-

porting democracy, human rights, and civil liberties in Egypt.

S. RES. 592

At the request of Mr. HATCH, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. Res. 592, a resolution designating the week of September 13–19, 2010, as “Polycystic Kidney Disease Awareness Week”, and supporting the goals and ideals of Polycystic Kidney Disease Awareness Week to raise awareness and understanding of polycystic kidney disease and the impact the disease has on patients now and for future generations until it can be cured.

S. RES. 597

At the request of Mr. SESSIONS, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. Res. 597, a resolution designating September 2010 as “National Prostate Cancer Awareness Month”.

AMENDMENT NO. 4519

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of amendment No. 4519 proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4531

At the request of Mr. JOHANNIS, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of amendment No. 4531 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4532

At the request of Mr. CORNYN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 4532 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4558

At the request of Mrs. HUTCHISON, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of amendment No. 4558 intended to be proposed to H.R. 5297, an act to create the Small Business Lend-

ing Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (for himself and Mr. KERRY):

S. 3665. A bill to promote the strengthening of the private sector in Pakistan; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise to introduce legislation that will lead to the establishment of the Pakistan-American Enterprise Fund on behalf of myself and Senator KERRY. The Pakistan-American Enterprise Fund bill authorizes the Administration to allocate, from existing funds granted under the Enhanced Partnership with Pakistan Act of 2009, such sums as required to create the Fund. The mission of the Fund will be to help empower Pakistan's private sector to create jobs, which will contribute towards achieving long-term social stability and economic growth.

The failed attack that occurred on May 1, 2010 in Times Square reinforces the need for our governments to work together to neutralize the imminent threats posed by terrorist waiting to strike, while simultaneously preventing the cancer of extremism from spreading and corrupting local communities in both our countries.

It was to help undergird such cooperation that President Obama last year signed the Kerry-Lugar-Berman Enhanced Partnership with Pakistan Act authorizing \$7.5 billion over 5 years. This non-military aid package is intended to help reverse Pakistan's converging crises of a growing al-Qaeda sanctuary, an expanding Taliban insurgency, a failing economy and deteriorating human development indicators. These conditions were intensifying turmoil and violence in the country, helping to incubate extremism and putting in question the security of Pakistan's nuclear weapons arsenal, as well as our own domestic security.

In order to directly address Pakistan's troubling economic trajectory, the Pakistan-American Enterprise Fund will work with the private sector to catalyze indigenous job creation, which will empower the people of Pakistan to help themselves. Entrepreneurial innovation is the engine that fuels sustainable economic growth and development. Pakistan currently enjoys a vibrant private sector, especially among small and medium size enterprises, but more must be done to encourage business formation and expansion.

According to the World Bank, small and medium size enterprises, SMEs, in

Pakistan account for nearly 90 percent of all businesses, 80 percent of all non-agricultural employees, and 40 percent of annual GDP. If the country is to emerge as a commercial partner and regional leader, SMEs must receive a strong transfusion of investment capital so that gainful employment exists as an alternative to the financial incentives offered by radical groups in Pakistan.

In addition to providing much needed capital to aspiring and established Pakistani entrepreneurs, the Fund will provide a vehicle through which we might also export the entrepreneurial instincts and experience that are widely dispersed, but largely untapped, among US financial experts. Sustainable entrepreneurial activity requires a combination of financial and intellectual capital. Delivering both of these ingredients effectively is essential.

USAID has demonstrated a limited capacity to deliver this type of relevant, usable assistance when needed. Currently under-resourced for and over-stretched by the task of rebuilding the infrastructures and economies of Iraq, Afghanistan and now Haiti—while simultaneously rebuilding the agency itself—USAID's efforts would be enhanced by the expertise the Fund could bring to bear.

The creation of a Fund for Pakistan, like many of its predecessors, could couple financial and intellectual capital in a framework that is uniquely suited to addressing the financial and technical assistance needs in distressed economies like Pakistan. Appointed by the president, the Board of Directors, comprised of 4 private citizens of the United States and 3 private citizens of Pakistan who serve without compensation, will leverage their experience and expertise operating in international and emerging markets to oversee the Fund, which will be based in Pakistan. In turn, the Board would hire and direct a group of American and Pakistani bankers, who would be dispatched, using existing funds granted under the Enhanced Partnership with Pakistan Act of 2009, to provide technical assistance and traditional financial products, like working capital loans and 3 to 5 year cash flow term loans for expansion capital, to the private sector.

While the enterprise fund model is not perfect, it is a tested mechanism for promoting economic growth and reinvigorating fledgling economies. After the fall of the Berlin Wall, Congress, through enactment of the Support for East European Development Act, SEED, and the Freedom Support Act, FSA, authorized nearly \$1.2 billion for USAID to establish ten new investment funds, collectively known as the "Enterprise Funds", throughout Central and Eastern Europe and the Former Soviet Union. These funds channeled funding into over 500 enterprises in 19 countries, leveraged an additional \$5 billion in private investment capital from outside the U.S. Government, provided substantial development capital

where supply was limited, created or sustained over 260,000 jobs through investment and development activities, funded \$74 million in technical assistance to strengthen the private sector and is expected to recoup 137 percent of the original USAID funding.

Pakistan's economy has shown resilience in the face of many challenges since the 1960s. However, today the country stands at a crossroads. If Pakistan is to repress extremist voices and emerge as a more reliable partner in the 21st century, we must empower the private sector to create jobs and contribute towards a sustainable future. The creation of the Pakistan-American Enterprise Fund would help to achieve this positive outcome. I ask for your support on passage of this bill.

By Mr. CARDIN (for himself, Mrs. FEINSTEIN, and Mr. LIEBERMAN):
S. 3666. A bill to authorize certain Department of State personnel, who are responsible for examining and processing United States passport applications, to be able to access certain Federal, State, and other databases, for the purpose of verifying the identity of a passport applicant, to reduce the incidence of fraud, to require the authentication of identification documents submitted by passport applicants, and for other purposes; to the Committee on the Judiciary.

Mr. CARDIN. Mr. President, on May 5, 2009, over 14 months ago, I chaired a Terrorism Subcommittee hearing entitled the Passport Issuance Process: Closing the Door to Fraud. Today we are holding Part II of that hearing. During the hearing last year, we learned about a Government Accountability Office, GAO, undercover investigation that had been requested by Senators KYL and FEINSTEIN to test the effectiveness of the passport issuance process, and to determine whether malicious individuals such as terrorists, spies, or other criminals could use counterfeit documents to obtain a genuine U.S. passport. What we learned from GAO was that "terrorists or criminals could steal an American citizen's identity, use basic counterfeiting skills to create fraudulent documents for that identity, and obtain a genuine U.S. passport." But that 2009 GAO report was not the first time that problems with the passport issuance process were identified. In 2005 and 2007, GAO also brought these issues to light.

Vulnerabilities in the passport issuance process are very serious because the U.S. passport is the gold standard for identification. A U.S. passport can be used for many purposes in this country, and it gives an individual the ability to travel internationally, which is an important tool for someone who wants to do us harm, including terrorists, spies, and other criminals. So the integrity and security of the passport issuance process is extremely important because it can have a profound impact on the national security of the United States.

A new GAO undercover investigation that I requested, along with Senators KYL, FEINSTEIN, LIEBERMAN and COLLINS, has revealed that while some improvements have been made by the State Department, the passport issuance process is still susceptible to fraud.

As a result, today I am introducing, along with Senators FEINSTEIN and LIEBERMAN, the Passport Identity Verification Act. This legislation is a common-sense solution that will give the State Department the legal authorities that it needs to access information contained in Federal, State, and other databases that can be used to verify the identity of every passport applicant, and to detect passport fraud, without extending the time that the State Department takes to approve passports. The legislation also requires the State Department to promulgate regulations, procedures, and policies to limit access to this information, and to ensure that personnel involved in the passport issuance process only access this information for authorized purposes. These are very important privacy and security protections in this legislation.

The legislation also requires the Secretary of State to conduct a formal study examining whether biometric information and technology can be used to enhance the ability to verify the identity of a passport applicant and to detect passport fraud.

I understand that the American people can become concerned when their travel plans, whether for leisure or business, are linked to their ability to obtain a passport in a timely fashion. But we have got to get this right, and it is not simply a question of process, techniques, and training. We need to make sure that the agencies that are responsible for processing passport application documents are concerned about national security as well as customer service, and we need to make sure they have the legal authorities, the resources, and the technology they need to verify the identity of a passport applicant and to detect passport fraud.

We simply cannot issue U.S. passports in this country on the basis of fraudulent documents. There is too much at stake. We have the technology and the information to prevent such issuance. The Passport Identity Verification Act will dramatically improve the State Department's ability to detect passport fraud.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Passport Identity Verification Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(A) A United States passport is an official government document issued by the Department of State, which can be obtained by United States nationals.

(2) A valid United States passport has many uses, including—

(A) certifying an individual's identity and verifying that a person is a United States national;

(B) allowing the passport holder to travel to foreign countries with an internationally recognized travel document;

(C) facilitating international travel;

(D) obtaining further identification documents; and

(E) setting up bank accounts.

(3) A United States national may obtain a United States passport for the first time by applying in person to a passport acceptance facility with 2 passport photographs, proof of United States nationality, and a valid form of photo identification, such as a driver's license. Passport acceptance facilities are located throughout the United States.

(4) Because United States passports issued under a false identity enable individuals to conceal their movements and activities, passport fraud could facilitate—

(A) acts of terrorism;

(B) espionage; and

(C) other crimes, such as illegal immigration, money laundering, drug trafficking, tax evasion, and alien smuggling.

(5) Since malicious individuals may seek to exploit potential vulnerabilities in the passport issuance process, it is important that personnel who are involved in the granting, refusal, revocation, or adjudication of United States passport applications have access to certain information contained in Federal, State, and other databases for the purpose of—

(A) verifying the identity of a passport applicant; or

(B) detecting passport fraud.

(6) In its final report, the National Commission on Terrorist Attacks Upon the United States (commonly known as the "9/11 Commission") concluded that funding and completing a "biometric entry-exit screening system" for travelers to and from the United States is essential to our national security.

(7) The use of biometrics and technology for foreign nationals who are visiting the country helps to make travel simple, easy, and convenient for legitimate visitors and dramatically improves the ability to detect the activities of those who wish to do harm or violate United States laws.

SEC. 3. ACCESS TO FEDERAL, STATE, AND OTHER DATABASES.

(a) **POWERS AND DUTIES OF THE SECRETARY OF STATE.**—Section 104 of the Immigration and Nationality Act (8 U.S.C. 1104) is amended by adding at the end the following:

"(f) **LAW ENFORCEMENT ACTIVITIES.**—Notwithstanding any other provision of law, the powers, duties, and functions conferred upon Department of State personnel relating to the granting, refusal, revocation, or adjudication of passports shall be considered law enforcement activities that involve the administration of criminal justice (as defined in section 20.3 of title 28, Code of Federal Regulations) when such personnel seek to—

"(1) verify the identity of a passport applicant; or

"(2) detect passport fraud."

(b) **DATA EXCHANGE.**—Section 105 of such Act (8 U.S.C. 1105) is amended—

(1) in subsection (b), by adding at the end the following:

"(5) The Attorney General and the Director of the Federal Bureau of Investigation, after consultation with the Secretary of

State, shall promptly implement a system, consistent with applicable security and training protocols and requirements, that will enable Department of State personnel designated by the Secretary of State, or by the designee of the Secretary, who are responsible for the granting, refusal, revocation, or adjudication of United States passports, to have real-time access to the criminal history information contained in the National Crime Information Center's Interstate Identification Index (NCIC-III), including the corresponding automated criminal history records, Wanted Person Files, and other files maintained by the National Crime Information Center, for the purpose of verifying the identity of the United States passport applicant, or detecting passport fraud.

"(6) The Secretary of State, or the designee of the Secretary, shall designate Department of State personnel who, in accordance with this Act shall be authorized to have real-time access to the information contained in the files described in paragraph (5), without any fee or charge, to enable named-based and other searches to be conducted for the purpose of verifying the identity of a passport applicant or detecting passport fraud."

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(3) by inserting after subsection (b) the following:

"(c) **DATA SHARING.**—Notwithstanding any other provision of law, the powers, duties, and functions conferred upon Department of State personnel relating to the granting, refusal, revocation, or adjudication of passports shall be considered law enforcement activities that involve the administration of criminal justice (as defined in section 20.3 of title 28, Code of Federal Regulations) when such personnel seek to verify the identity of a passport applicant, or seek to detect passport fraud by accessing or using information contained in databases maintained by any Federal, State, tribal, territory, or local government department or agency, or private entity or organization, that contains—

"(1) criminal history information or records;

"(2) driver's license information or records;

"(3) marriage, birth, or death information or records;

"(4) naturalization and immigration records; or

"(5) other information or records that can verify the identity of the passport applicant or can detect passport fraud."; and

(4) by adding at the end the following:

"(f) **DATA SHARING REGULATIONS, PROCEDURES, AND POLICIES.**—Not later than 120 days after the date of the enactment of this subsection, the Secretary of State shall promulgate final regulations, procedures, and policies to govern the access by Department of State personnel to the information contained in databases described in subsection (c). Such regulations, procedures, and policies shall—

"(1) specify which Department of State personnel have a need to know and will be given access to the databases or the information contained in the databases described in subsection (c);

"(2) require Department of State personnel who will be given access to the databases or the information contained in the databases described in subsection (c) to successfully complete all ongoing training and certification requirements for such access;

"(3) require Department of State personnel to access such databases or the information contained in such databases—

"(A) to verify the identity of each passport applicant; and

"(B) to detect whether the applicant has committed or is committing passport fraud;

"(4) ensure that such databases, or the information contained in such databases, are only accessed for the purpose of verifying the identity of each passport applicant or detecting passport fraud, and prohibit access for any other purpose;

"(5) ensure that the Department of State personnel accessing such databases or the information contained in such databases—

"(A) do not violate the security, confidentiality, and privacy of such databases or the information contained in such databases; and

"(B) successfully complete all ongoing training and certification requirements for such access;

"(6) establish audit procedures and policies to verify that such databases or the information contained in such databases are only being accessed for the purposes set forth in the Passport Identity Verification Act;

"(7) require prompt reporting to appropriate Department of State officials after each instance of—

"(A) unauthorized access to such databases or the information contained in such databases; or

"(B) access to such databases or the information contained in such databases for unauthorized purposes; and

"(8) require the appropriate Department of State personnel to conduct a regular review of—

"(A) the audit and reporting procedures and policies to determine whether such procedures and policies are working properly; and

"(B) the ongoing training and certification requirements to determine whether there has been compliance with such requirements."

SEC. 4. CONSULTATION AND REPORT.

(a) **CONSULTATION.**—

(1) **IN GENERAL.**—The Secretary of State, in consultation with the Secretary of Homeland Security, the Attorney General, and the United States Postmaster General, shall conduct an analysis to determine—

(A) if persons applying for or renewing a United States passport should provide biometric information, including photographs that meet standards that enhance the ability of facial recognition technology to verify the identity of the passport applicant and user, and to detect passport fraud; and

(B) if technology should be employed to verify the authenticity of drivers' license and other identity documents that are presented to passport acceptance facilities.

(2) **FACTORS.**—In conducting the analysis under paragraph (1), the Secretary shall consider all relevant factors, including—

(A) how the biometric information and technology would be used and stored;

(B) the costs and benefits to be gained; and

(C) the effect on the individual's privacy and the economy.

(b) **REPORT.**—

(1) **IN GENERAL.**—Not later than 6 months after the date of the enactment of this Act, the Secretary of State shall submit a report to the congressional committees set forth in paragraph (2) that contains the results of the analysis carried out under subsection (a), including a recommendation with respect to the use of biometric information and technology to verify the identity of a passport applicant and user, and to detect passport fraud.

(2) **CONGRESSIONAL COMMITTEES.**—The congressional committees set forth in this paragraph are—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on Homeland Security and Governmental Affairs of the Senate;

(D) the Committee on the Judiciary of the House of Representatives;

(E) the Committee on Foreign Affairs of the House of Representatives;

(F) the Committee on Homeland Security of the House of Representatives; and

(G) the Committee on Oversight and Government Reform of the House of Representatives.

By Mr. KERRY (for himself, Mrs. LINCOLN, and Mr. FRANKEN):

S. 3667. A bill to amend part A of title IV of the Social Security Act to exclude child care from the determination of the 5-year limit on assistance under the temporary assistance to needy families program, and for other purposes; to the Committee on Finance.

Mr. KERRY. Mr. President, our Nation has suffered through the worst recession since the 1930s. As the economy begins to recover, the availability of affordable and safe child care is a necessary component of enabling parents to find and maintain employment to support their family.

The recession has caused States across the country to scale back funding for child care. The waiting lists for subsidized child care in some States are beginning to rise and a few states have stopped or are planning to stop providing child care assistance to families who are not receiving Temporary Assistance to Needy Families, TANF, altogether. Restrictions of the availability of child care assistance make it harder for parents to afford child care and force some parents to leave their jobs and turn to welfare programs for support. That is wrong and we can do better.

Child care consumes a large portion of family budgets, and can range from \$4,560 to \$15,895 annually for full-time care depending on where the family lives, the type of care, and the age of the child. Child care prices are higher than other household expenses and typically exceed the average amount families spend on food. In 39 States and the District of Columbia, the average annual price for child care for an infant in a child care center was higher than a year's tuition at many 4-year public colleges.

Without assistance, low-income families can find it impossible to secure child care. For example, in 2005, the median monthly income of families receiving child care assistance was just \$15,396 a year. Nearly half of, 49 percent, of families receiving child care assistance live below the poverty line and 86 percent of these families were single parent households.

The Deficit Reduction Act of 2005 increased mandatory child care funding by \$1 billion over 5 years, fiscal years 2006 to 2010. Without legislative action this funding will expire on September 30, 2010.

The President's fiscal year 2011 budget calls for mandatory child care to be reauthorized and provided an \$800 million increase above the past 5 years. This increase is necessary because only

about one in six children eligible for Federal child care assistance receives help.

Today I am introducing the Children First Act to address the growing unmet need for affordable and safe child care. I am pleased Senator LINCOLN is an original cosponsors of this important legislation.

The Children First Act would help states meet the significant demand for child care assistance by increasing funding for mandatory child care by \$800 million annually for fiscal year 2011 through 2015. This legislation would also annually index mandatory child care funding to inflation beginning in fiscal year 2012. This increased funding would allow approximately 117,500 more children to have access to safe and affordable child care.

The Children First Act would exclude child care from the definition of TANF assistance so that unemployed families who receive child care assistance will not have it count towards the 5-year time limit for Federal TANF assistance. The legislation would also ensure that the minimum child care health and safety standards required for providers receiving Child Care Development Block Grant, CCDBG, funding also apply to providers who receive funding through TANF. In Massachusetts, all licensed providers are required to the same health and safety standards regardless of subsidy type received.

This legislation would increase the availability of child care for parents who are required to work. States are currently prohibited from withholding or reducing assistance to a single parent with children under 6 who does not meet work requirements for reasons related to the unavailability or unsuitability of appropriate, affordable child care arrangements. The Children First Act would prevent States from withholding or reducing child care assistance to parents of a child with children under age 13.

Enactment of this legislation is incredibly important for my home State of Massachusetts which currently has approximately 18,000 children on a waitlist for child care subsidies. Approximately half of the parents with at least one preschool age child in the household have been on the waitlist for 13 months or more.

The high cost of child care is the most significant issue facing families currently on the waitlist in Massachusetts. Massachusetts families pay more on average than families in any other state for most types of child care; the average price of full time care in center based settings is: \$15,895 for an infant and \$11,678 for a preschooler. This means a single parent at the State median income in Massachusetts, \$26,680, would have to spend nearly 44 percent of their income to pay for the average full day pre-kindergarten program.

I would like to thank a number of organizations who have been integral to the development of the Children First

Act and who have endorsed it today, including the American Federation of State, County, and Municipal Employees, AFSCME, the Children's Defense Fund, CLASP, the First Focus Campaign for Children, the National Women's Law Center, the Service Employees International Union, SEIU, and the YMCA of the USA.

These reforms would significantly increase access to stable and affordable child care to low-income families and would make our nation's children more prepared for school and success later in life. I look forward to working with my colleagues in the Senate to pass this legislation.

By Mr. HARKIN (for himself, Mr. BAYH, and Mr. BOND):

S. 3668. A bill to require the Secretary of Health and Human Services to establish a demonstration program to award grants to, and enter into contracts with, medical-legal partnerships to assist patients and their families to navigate health-related programs and activities; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, today I join Senator BAYH and Senator BOND to introduce the Medical-Legal Partnership for Health Act. This legislation builds upon the great work that medical-legal partnerships are doing every day, all across the United States.

Medical-legal partnerships bring legal aid services into medical settings, such as hospitals and community health centers, to provide patients with legal help to address conditions that lead to poor health, lengthy hospital stays, and repeated emergency room visits. Imagine, for example, that your child develops chronic ear infections. You repeatedly bring your sick child to the local emergency room, struggling each time to pay the high costs of medical care and prescription antibiotics. Imagine further that you are the head of a low-income family, you don't have health insurance or the money to pay for the ER visits, and the hospital or community bears the brunt of the costs.

Medical-legal partnerships can help break this expensive and avoidable cycle. If the emergency room doctor is trained in screening for families who could benefit from legal intervention, the doctor may learn, for example, that the family's landlord refuses to turn on the heat in their apartment building. The frigid temperatures in their home have made their child more susceptible to illness, which explains the chronic ear infections. By referring the patient to the hospital's medical-legal partnership program, the family receives legal aid to go after the slumlord and require the heat to be turned on, and the children's ear infections stop. As a consequence, the family is healthier, their home is warm, and both they and the hospital save on health costs. All of this is possible because of a low-cost, common-sense intervention.

The first medical-legal partnership was started in Boston in 1993, and since

then, 85 more have sprung up in 38 States. These centers can serve multiple hospitals and clinics within a community. Currently, medical-legal partnerships support more than 200 hospitals, clinics, and health centers. They help vulnerable patients resolve social conditions that lead to poor health outcomes, such as getting a landlord to change air filters to help minimize asthma and allergies, assisting victims of domestic violence with preventing future abuse, and helping terminally ill patients make custodial arrangements for their dependent children.

In many cases, patients aren't even aware that their health challenges are caused by their living environment, or that their problem can be addressed through the legal system.

After graduating from law school, I served as a Legal Services attorney in Iowa. I learned first-hand how crucial this assistance is to struggling families and individuals who have no place else to turn when they are taken advantage of or abused. I know the invaluable legal help provided to battered women trying to leave abusive relationships while fearing for their safety and the safety of their children. I know that, without access to the legal system, the poor are often powerless against the injustices they suffer.

I am very proud to say that my home State of Iowa has a particularly successful partnership. The Iowa Legal Aid Health and Law Project harnesses the talents of Iowa physicians and attorneys to improve the lives of vulnerable Iowans. Many times these situations involve substandard housing, discrimination, elder abuse, or problems accessing disability, Social Security, health, or veteran's benefits. By partnering with 17 hospitals and health centers across my State, the Iowa Legal Aid Health and Law Project is able to extend services from Sioux City to Dubuque, and from Council Bluffs to Fort Dodge. Last year, the program served 880 Iowans, and 94 percent of their cases had a positive outcome. The Iowa Legal Aid Health and Law Project does a remarkable job. They are just one example of the great work going on across the country.

You may be surprised to learn that when it comes to medical-legal partnerships, a little money can go a long way. Iowa's program was started with a Federal investment of less than \$300,000. The program prevents hospital admissions and emergency room visits that cost hospitals and patients many thousands of dollars in health care costs and insurance premiums. A modest investment in these community programs can help people achieve healthier, safer lives and prevent future hospitalizations and health care costs. That sounds like common sense to me. And that's why, today, I am proud to introduce the Medical-Legal Partnership for Health Act along with Senators Bayh and Bond: to give health care providers and lawyers

across the country the opportunity to start such programs.

The Act creates a Federal demonstration program to help create, strengthen, and evaluate medical-legal partnerships. Overall, this legislation will support 60 MLP sites in community health centers, the Veterans Administration, hospitals, and other health care settings.

In the spirit of compromise and bipartisanship, we have taken contentious issues off the table. For example, the bill excludes Federal money from being used toward class action law suits, medical malpractice cases, representation of undocumented individuals, and abortion or abortion-counseling services.

In addition to having bipartisan support, medical-legal partnerships have been praised by prominent organizations representing physicians and attorneys. They have received endorsement from the American Medical Association, the American Bar Association, the American Academy of Pediatrics, the American Hospital Association, and the Accreditation Council of Graduate Medical Education, to name just a few.

Through this community-based, common-sense investment in addressing the social effects of poverty, we will be able to help so many of our most at-risk citizens to avoid illness and hospitalization.

I extend my sincere thanks to Senator BAYH and Senator BOND for their hard work and commitment to this bill. And I urge our colleagues to join us in supporting this investment in medical-legal partnerships.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical-Legal Partnership for Health Act".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Numerous studies and reports, including the annual National Healthcare Disparities Report and Unequal Treatment, the 2002 Institute of Medicine Report, document the extensiveness to which vulnerable populations suffer from health disparities across the country.

(2) These studies have found that, on average, racial and ethnic minorities and low-income populations are disproportionately afflicted with chronic and acute conditions such as asthma, cancer, diabetes, and hypertension and suffer worse health outcomes, worse health status, and higher mortality rates.

(3) Several recent studies also show that health and healthcare quality are a function of not only access to healthcare, but also the social determinants of health, including the environment, the physical structure of communities, socio-economic status, nutrition, educational attainment, employment, race,

ethnicity, geography, and language preference, that directly and indirectly affect the health, healthcare, and wellness of individuals and communities.

(4) Formally integrating medical and legal professionals in the health setting can more effectively address the health needs of vulnerable populations and ultimately reduce health disparities.

(5) All over the United States, healthcare providers who take care of low-income individuals and families are partnering with legal professionals to assist them in providing better quality of healthcare.

(6) Medical-legal partnerships integrate lawyers in a health setting to help patients navigate the complex government, legal, and service systems in addressing social determinants of health, such as income supports for food insecure families and mold removal from the home of asthmatics.

(b) PURPOSES.—The purposes of this Act are to—

(1) support and advance opportunity for medical-legal partnerships to be more fully integrated in healthcare settings nationwide;

(2) to improve the quality of care for vulnerable populations by reducing health disparities among health disparities populations and addressing the social determinants of health; and

(3) identify and develop cost-effective strategies that will improve patient outcomes and realize savings for healthcare systems.

SEC. 3. MEDICAL-LEGAL PARTNERSHIPS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a nationwide demonstration project consisting of—

(1) awarding grants to, and entering into contracts with, medical-legal partnerships to assist patients and their families to navigate programs and activities; and

(2) evaluating the effectiveness of such partnerships.

(b) TECHNICAL ASSISTANCE.—The Secretary may, directly or through grants or contracts, provide technical assistance to grantees under subsection (a)(1) to support the establishment and sustainability of medical-legal partnerships. Not to exceed 5 percent of the amount appropriated to carry out this section in a fiscal year may be used for purposes of this subsection.

(c) FUNDING.—

(1) USE OF FUNDS.—Amounts received as a grant or pursuant to a contract under this section shall be used to assist patients and their families to navigate health-related programs and activities for purposes of achieving one or more of the following goals:

(A) Enhancing access to healthcare services.

(B) Improving health outcomes for low-income individuals, as defined in subsection (g).

(C) Reducing health disparities among health disparities populations.

(D) Enhancing wellness and prevention of chronic conditions and other health problems.

(E) Reducing cost of care to the healthcare system.

(F) Addressing the social determinants of health.

(G) Addressing situational contributing factors.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary, but not to exceed \$10,000,000, for each of the fiscal years 2011 through 2015.

(3) MATCHING REQUIREMENT.—For each fiscal year, the Secretary may not award a grant or contract under this section to an entity unless the entity agrees to make available non-Federal contributions (which may

include in-kind contributions) toward the costs of a grant or contract awarded under this section in an amount that is not less than \$1 for each \$10 of Federal funds provided under the grant or contract.

(4) **ALLOCATION.**—Of the amounts appropriated pursuant to paragraph (2) for a fiscal year, the Secretary may obligate not more than 5 percent for the administrative expenses of the Secretary in carrying out this section.

(d) **ELIGIBLE ENTITIES.**—To be eligible to receive a grant or contract under this section, an entity shall—

(1) be an organization experienced in bridging the medical and legal professions on behalf of vulnerable populations nationally; and

(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including information demonstrating that the applicant has experience in bridging the medical and legal professions or a strategy or plan for cultivating and building medical-legal partnerships.

(e) **PROHIBITIONS.**—No funds under this section may be used—

(1) for any medical malpractice action or proceeding;

(2) to provide any support to an alien who is not—

(A) a qualified alien (as defined in section 431 of the Immigration and Nationality Act);

(B) a nonimmigrant under the Immigration and Nationality Act; or

(C) an alien who is paroled into the United States under section 212(d)(5) of such Act for less than one year;

(3) to provide legal assistance with respect to any proceeding or litigation which seeks to procure an abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion; or

(4) to initiate or participate in a class action lawsuit.

(f) **REPORTS.**—

(1) **FINAL REPORT BY SECRETARY.**—Not later than 6 months after the date of the completion of the demonstration program under this section, the Secretary shall conduct a study of the results of the program and submit to the Congress a report on such results that includes the following:

(A) An evaluation of the program outcomes, including—

(i) a description of the extent to which medical-legal partnerships funded through this section achieved the goals described in subsection (b);

(ii) quantitative and qualitative analysis of baseline and benchmark measures; and

(iii) aggregate information about the individuals served and program activities.

(B) Recommendations on whether the programs funded under this section could be used to improve patient outcomes in other public health areas.

(2) **INTERIM REPORTS BY SECRETARY.**—The Secretary may provide interim reports to the Congress on the demonstration program under this section at such intervals as the Secretary determines to be appropriate.

(3) **REPORTS BY GRANTEEES.**—The Secretary may require each recipient of a grant under this section to submit interim and final reports on the programs carried out by such recipient with such grant.

(g) **DEFINITIONS.**—In this section:

(1) The term “health disparities populations” has the meaning given such term in section 485E(d) of the Public Health Service Act.

(2) The term “low-income individuals” refers to the population of individuals and families who earn up to 200 percent of the Federal poverty level.

(3) The term “medical-legal partnership” means an entity—

(A) that is a partnership between—

(i) a community health center, public hospital, children's hospital, or other provider of health care services to a significant number of low-income beneficiaries; and

(ii) one or more legal professionals; and

(B) whose primary mission is to assist patients and their families navigate health-related programs, activities, and services through the provision of relevant civil legal assistance on-site in the healthcare setting involved, in conjunction with regular training for healthcare staff and providers regarding the connections between legal interventions, social determinants, and health of low-income individuals.

(4) The term “Secretary” means the Secretary of Health and Human Services.

By Mr. LEAHY (for himself and Mr. FRANKEN):

S. 3669. A bill to increase criminal penalties for certain knowing violations relating to food that is misbranded or adulterated; to the Committee on Health, Education, Labor, and Pensions.

Mr. LEAHY. Mr. President, today, I am pleased to introduce the Food Safety Enforcement Act, legislation that will hold criminals who poison our food supply accountable for their crimes. This common sense bill increases the sentences that prosecutors can seek for people who knowingly violate our food safety laws. If it is passed, those who knowingly contaminate our food supply and endanger Americans could receive up to 10 years in jail.

Last year, a mother from Vermont, Gabrielle Meunier, testified before the Senate Agriculture Committee about her 7-year-old son, Christopher, who became severely ill and was hospitalized for 6 days after he developed salmonella poisoning from peanut crackers. Thankfully, Christopher recovered, and Mrs. Meunier was able to share her story, which highlighted for the Committee and for the Senate improvements that are needed in our food safety system. No parent should have to go through what Mrs. Meunier experienced. The American people should be confident that the food they buy for their families is safe.

Current statutes do not provide sufficient criminal sanctions for those who knowingly violate our food safety laws. The fines and recalls that usually result from criminal violations under current law fall short in protecting the public from harmful products. Too often, those who are willing to endanger our children in pursuit of profits view such fines or recalls as just the cost of doing business. In order to protect the public and effectively deter this unacceptable conduct, we need to make sure that those who knowingly poison the food supply will go to jail.

After hearing Mrs. Meunier's account, I called on the Department of Justice to conduct a criminal investigation into the outbreak of salmonella that made Christopher and many others so sick. The outbreak was traced to the Peanut Corporation of

America. The president of that company, Stewart Parnell, came before Congress and invoked his right against self-incrimination, refusing to answer questions about his role in distributing contaminated peanut products. These products have been linked to the deaths of nine people and have sickened more than 600 others. It appears that Parnell knew that peanut products from his company had tested positive for deadly salmonella, but rather than immediately disposing of the products, he sought ways to sell them anyway. The evidence suggests that he knowingly put profit above the public's safety.

The bill I introduce today would increase sentences for people who put profits above safety by knowingly contaminating the food supply. It makes such offenses felony violations and significantly increases the chances that those who commit them will face jail time, rather than a slap on the wrist, for their criminal conduct.

I hope Senators of both parties will act quickly to pass this bill. On behalf of Mrs. Meunier and her son, Christopher, as well as many like them across the country, we must repair our broken food safety system. The Justice Department must be given the tools it needs to investigate, prosecute, and truly deter crime involving food safety. This bill will be an important step toward making our food supply safer.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3669

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Food Safety Enforcement Act of 2010”.

SEC. 2. CRIMINAL PENALTIES.

Section 303(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(a)) is amended—

(1) in paragraph (1), by striking “Any” and inserting “Except as provided in paragraph (2) or (3), any”;

(2) in paragraph (2), by striking “Notwithstanding the provisions of paragraph (1) of this section, if” and inserting “If”; and

(3) by adding at the end the following:

“(3) Any person who knowingly violates subsection (a), (b), (c), (k), or (v) of section 301 with respect to any food that is misbranded or adulterated shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.”.

By Mr. SPECTER (for himself and Mr. CASEY):

S. 3670. A bill to establish standards limiting the amounts of arsenic and lead contained in glass beads used in pavement markings; to the Committee on Environment and Public Works.

Mr. SPECTER. Mr. President, I seek recognition to introduce the Safe Highway Markings Act of 2010, a bill that would establish minimum standards limiting the amounts of arsenic and

lead contained in glass beads for reflective pavement markings. This bill will help protect surface and ground water from contamination and protect the health and safety of highway workers.

Each year, approximately 500 million pounds of glass beads are applied to create reflective markings on roads in the United States. The source materials for the manufacturing of these glass beads can vary widely. While most engineered glass beads use environmentally-friendly materials such as recycled flat glass, some of the glass beads contain arsenic, lead and other heavy metals. As the glass degrades from the pounding of traffic, snow plows, trucks and weather, toxic materials can leach out of the glass and mix into the ground and surface water. In addition, workers who apply the glass beads with high concentrations of heavy metals are at risk for exposure.

In response to environmental and health issues, several states have adopted regulations that require the use of environmentally-friendly, non-toxic glass materials. In particular, California, Iowa, Maine, New Jersey, Vermont, Washington and Wyoming have established procurement standards for the quality of glass beads used in highways markings in their States. Several other States are currently reviewing proposals. Additionally, the European Union, China, Australia, and several Canadian provinces have also set standards limiting heavy metal concentration.

It makes no sense to continue this piecemeal approach; it is time for a national standard. This legislation establishes a minimum standard for engineered glass beads used in reflective markings. The legislation ensures that States receiving Federal funds adhere to the Environmental Protection Agency's methods and standards for engineered glass beads, specifically that the beads may contain no more than 200 parts per million of arsenic.

Similar legislation has been introduced in the House and I look forward to advancing this important legislation in the Senate. As such, I urge my colleagues to support this bill that will help safeguard the lives of highway workers and help keep public roads free of high levels of arsenic and lead.

By Mr. ROCKEFELLER (for himself and Mr. GOODWIN):

S. 3671. A bill to improve compliance with mine and occupational safety and health law, empower workers to raise safety concerns, prevent future mine and other workplace tragedies, establish rights of families of victims of workplace accidents, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ROCKEFELLER. Mr. President, today I am proud to introduce with my colleague Senator GOODWIN the Robert C. Byrd Mine and Workplace Safety and Health Act of 2010. This legislation is a first step to making sure that every miner in West Virginia can go to

work each and every day without fearing for their safety. It also serves as a tribute to all miners who have lost their lives, and also to my dear friend and colleague, the late Senator Byrd, who devoted his career to improving the working condition of West Virginia's miners and worked diligently with me to develop this bill.

It has been several months since the Upper Big Branch mine disaster, but for many of us, it feels like only yesterday that we were anxiously waiting to hear news about the missing miners. Shortly after that horrible accident I came to this floor and said that "No words are adequate to describe the grief." I know that for the families of those 29 miners that remains the case.

Even as the investigation into the Upper Big Branch mine continues to move forward, we owe it to the victims' families and to the miners that still get up and go to work every day, to find real solutions to keep our miners safe.

The legislation Senator GOODWIN and I are introducing today has been a team effort—particularly with my colleague and friend Congressman NICK RAHALL, who has introduced similar legislation in the U.S. House of Representatives. I would like to acknowledge Senators HARKIN and MURRAY for their effort and their commitment to addressing mine and workplace safety.

It gives teeth to existing whistleblower protections so that miners can come forward to report safety concerns. Miners should not fear for their jobs—their livelihoods—simply because they are trying to keep themselves and their coworkers safe. We have a responsibility to give them every protection necessary. Our bill gives miners up to 180 days to file a whistleblower retaliation complaint, it allows punitive damages and criminal penalties for retaliating against a whistleblower, and it makes sure that miners do not lose pay if their mines are shut down for safety reasons. It also allows miners to give private interviews with MSHA and exclude the operator or union representative from the room. I know that the industry and unions do not like this, but it is important for miners to be allowed to speak freely without intimidation or influence from anyone.

Our legislation also gives MSHA additional tools to keep miners safe, including the ability to order additional safety training at mines where it is needed, expanded authority to seek injunctions to stop dangerous practices, and the ability to subpoena documents and testimony outside of the public hearing context. But this bill also takes a hard look at MSHA to make sure they are doing their job by creating an independent panel to investigate MSHA's role in serious accidents and it requires MSHA to conduct inspections during all hours and shifts so that every miner has the same level of protection.

Importantly, this bill also fixes the broken "pattern of violations" proc-

ess—which was meant to give MSHA authority to crack down on mines that repeatedly violate our laws, but has never been effectively implemented. Rather than the punitive process that exists under current law, our legislation focuses on rehabilitating unsafe mines so that miners can go to work confident that they will safely return home to their families at the end of the shift. Mines will have to implement safety plans, will be subject to additional inspections, and will be required to show substantial improvement in their safety records before being removed from pattern status.

Our bill contains additional protections that will apply to workers across all industries under the jurisdiction of the Occupational Safety and Health Administration. These include expanded whistleblower protections for employees, the explicit right to refuse to perform unsafe work, greater rights for victims and their families to participate in the investigation process, updated civil and criminal penalties, and the requirement that hazardous conditions be abated immediately so that litigation does not delay safety. Deadly accidents occur in mines and throughout every industry. Everyone deserves to be safe on the job, and these provisions will go a long way toward achieving that goal.

But our bill also has additional provisions that are not included in the House version. It requires an evaluation of whether MSHA has the experts it needs to effectively enforce our laws. It requires the Government Accountability Office to conduct an independent evaluation of MSHA's new "pattern of violations" criteria to make sure it is effective in preventing repeated violations at our most unsafe mines. It promotes greater coordination between the Department of Justice and Department of Labor in investigating criminal violations of our mine safety laws. It requires MSHA to improve its online database so that the public can more easily find out the full safety records of operators not just individual mines, and compare the safety records of various mines and operators. It requires MSHA to routinely develop long-term safety goals and strategic plans to meet those goals. These provisions will improve transparency, increase accountability, and set us on a path toward safety.

We can never change what happened at the Upper Big Branch mine, but we can change the way we do business going forward. Americans deserve the peace of mind that comes from safe working conditions. Following the Upper Big Branch tragedy, this Senate chose to honor the fallen miners with a resolution—a gesture that Senator Byrd and I very much appreciated. I hope that my colleagues will work with Senator GOODWIN and I to pass meaningful mine safety legislation in their honor as well.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 601—TO AUTHORIZE TESTIMONY OF SENATE EMPLOYEES IN A GRAND JURY PROCEEDING IN THE DISTRICT OF COLUMBIA

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 601

Whereas, in a proceeding before a grand jury of the United States District Court for the District of Columbia testimony has been sought from employees of the office of Senator John Ensign;

Whereas, by the privileges of the Senate of the United States and Rule XI of the standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate; Now, therefore be it

Resolved, That current or former employees of Senator John Ensign's office are authorized to testify in the grand jury proceeding or any related proceeding, except concerning matters for which a privilege should be asserted.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4562. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 4557 submitted by Mr. MENENDEZ and intended to be proposed to the amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table.

SA 4563. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4564. Mr. REED submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4565. Mr. REED submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4566. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 4567. Mr. REID (for Mrs. MURRAY (for herself, Mr. HARKIN, Mr. REID, and Mr. SCHUMER)) proposed an amendment to the bill H.R. 1586, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

SA 4568. Mr. REID proposed an amendment to amendment SA 4567 proposed by Mr. REID (for Mrs. MURRAY (for herself, Mr. HARKIN, Mr. REID, and Mr. SCHUMER)) to the bill H.R. 1586, supra.

SA 4569. Mr. REID proposed an amendment to the bill H.R. 1586, supra.

SA 4570. Mr. REID proposed an amendment to amendment SA 4569 proposed by Mr. REID to the bill H.R. 1586, supra.

SA 4571. Mr. REID proposed an amendment to amendment SA 4570 proposed by Mr. REID to the amendment SA 4569 proposed by Mr. REID to the bill H.R. 1586, supra.

SA 4572. Mr. MCCAIN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 5875, making emergency supplemental appropriations for border security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4562. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 4557 submitted by Mr. MENENDEZ and intended to be proposed to the amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 3 and all that follows through page 2, line 2, and insert the following:

(v) Nonowner-occupied commercial real estate loans.

(vi)(I) Loans secured by real estate—

(aa) that are made to finance—

(AA) land development that is preparatory to erecting new structures, including improving land, laying sewers, and laying water pipes; or

(BB) the on-site construction of industrial, commercial, residential, or farm buildings;

(bb) that is vacant land, except land known to be used or usable for agricultural purposes, such as crop and livestock production;

(cc) the proceeds of which are to be used to acquire and improve developed or undeveloped property; or

(dd) that are made under title I of the National Housing Act (12 U.S.C. 1702 et seq.).

(II) Subclause (I) shall only apply to loans that are extended to small business concerns (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) in the construction industry, as such term is defined by the Secretary in consultation with the Administrator of the Small Business Administration.

(III) For purposes of this clause, the term "construction" includes the construction of new structures, additions or alterations to existing structures, and the demolition of existing structures to make way for new structures.

(B) LIMITATION.—Notwithstanding subparagraph (A), a loan shall constitute small business lending only if it is made to a small business concerns (as defined under section 3 of the Small Business Act (15 U.S.C. 632)).

SA 4563. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B, add the following:

PART —TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

SEC. 4. TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM.

(a) FUNDING.—The matter under the heading "TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM" of title III of division C of the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 619) is amended, in the matter preceding the first proviso—

(1) by striking "\$47,000,000,000" and inserting "\$56,000,000,000"; and

(2) by striking "\$18,500,000,000" and inserting "\$27,500,000,000".

(b) USE OF STIMULUS FUNDS TO OFFSET SPENDING.—

(1) IN GENERAL.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 115) (other than under title X of division A of that Act) is rescinded, on a pro rata basis, by an aggregate amount that equals the amounts necessary to offset any net increase in spending or foregone revenues resulting from this section and the amendments made by this section.

(2) REPORT.—The Director of the Office of Management and Budget shall submit to each congressional committee the amounts rescinded under paragraph (1) that are within the jurisdiction of the committee.

SA 4564. Mr. REED submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 130 of the amendment, after line 25, insert the following:

SEC. 1705. COMMUNITY DEVELOPMENT FUNDS.

Chapter 11 of title I of the Supplemental Appropriations Act, 2010, is amended by striking the heading "Community Development Fund" and all the matter that follows through the ninth proviso under such heading and inserting the following:

"COMMUNITY DEVELOPMENT FUND

"For an additional amount for the 'Community Development Fund', for necessary

expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by flooding for which the President declared a major disaster between March 29, 2010, and May 7, 2010, which included Individual Assistance for an entire State or not fewer than 45 counties within a State under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, \$100,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93-383): *Provided*, That funds shall be awarded directly to the State or unit of general local government at the discretion of the Secretary: *Provided further*, That prior to the obligation of funds a grantee shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: *Provided further*, That funds provided under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program: *Provided further*, That such funds may not be used for activities reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers: *Provided further*, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State or subdivision thereof under the Community Development Fund: *Provided further*, That a State or subdivision thereof may use up to 5 percent of its allocation for administrative costs: *Provided further*, That in administering the funds under this heading, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by a State or subdivision thereof explaining why such waiver is required to facilitate the use of such funds or guarantees, if the Secretary finds that such waiver would not be inconsistent with the overall purpose of title I of the Housing and Community Development Act of 1974: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: *Provided further*, That the Secretary shall obligate to a State or subdivision thereof not less than 50 percent of the funding provided under this heading within 90 days after the enactment of this Act: *Provided further*, That not more than 50 percent of the funding provided under this heading shall be allocated to any State (including units of general local government)."

SA 4565. Mr. REED submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which

was ordered to lie on the table; as follows:

At the end of subtitle A of title IV, add the following:

SEC. 41. ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS.

In chapter 2 of title I of the Act entitled "An Act making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes", strike the matter under the heading "ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS" under the heading "ECONOMIC DEVELOPMENT ADMINISTRATION" under the heading "DEPARTMENT OF COMMERCE" and insert the following: "Pursuant to section 703 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3233), for an additional amount for "Economic Development Assistance Programs", for necessary expenses relating to disaster relief, long-term recovery, and restoration of infrastructure in areas affected by flooding for which the President declared a major disaster during the period beginning on March 29, 2010, and ending on May 7, 2010, which included individual assistance for an entire State or not fewer than 45 counties within a State under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.), \$49,000,000, to remain available until expended: *Provided*, That not more than 50 percent of the amount provided under this heading shall be allocated to any State."

SA 4566. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 633. SURVIVOR BENEFIT PLAN ANNUITIES FOR SPECIAL NEEDS TRUSTS ESTABLISHED FOR THE BENEFIT OF DEPENDENT CHILDREN INCAPABLE OF SELF-SUPPORT.

(a) SPECIAL NEEDS TRUST AS ELIGIBLE BENEFICIARY.—

(1) IN GENERAL.—Subsection (a) of section 1450 of title 10, United States Code, is amended—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

"(4) SPECIAL NEEDS TRUSTS FOR SOLE BENEFIT OF CERTAIN DEPENDENT CHILDREN.—Notwithstanding subsection (i), a supplemental or special needs trust established under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) for the sole benefit of a dependent child considered disabled under section 1614(a)(3) of that Act (42 U.S.C. 1382c(a)(3)) who is incapable of self-support because of mental or physical incapacity."

(2) CONFORMING AMENDMENT.—Subsection (i) of such section is amended by inserting "(a)(4) or" after "subsection".

(b) REGULATIONS.—Section 1455(d) of such title is amended—

(1) in the subsection caption, by striking "AND FIDUCIARIES" and inserting "FIDUCIARIES, AND SPECIAL NEEDS TRUSTS";

(2) in paragraph (1)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "and"; and

(C) by adding at the end the following new subparagraph:

"(C) a dependent child incapable of self-support because of mental or physical incapacity for whom a supplemental or special needs trust has been established under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)).";

(3) in paragraph (2)—

(A) by redesignating subparagraphs (C) through (H) as subparagraphs (D) through (I), respectively;

(B) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) In the case of an annuitant referred to in paragraph (1)(C), payment of the annuity to the supplemental or special needs trust established for the annuitant;"

(C) in subparagraph (D), as redesignated by subparagraph (A) of this paragraph, by striking "subparagraphs (D) and (E)" and inserting "subparagraphs (E) and (F)"; and

(D) in subparagraph (H), as so redesignated—

(i) by inserting "or (1)(C)" after "paragraph (1)(B)" in the matter preceding clause (i);

(ii) in clause (i), by striking "and" at the end;

(iii) in clause (ii), by striking the period at the end and inserting "and"; and

(iv) by adding at the end the following new clause:

"(iii) procedures for determining when annuity payments to a supplemental or special needs trust shall end based on the death or marriage of the dependent child for which the trust was established."; and

(4) in paragraph (3), by striking "OR FIDUCIARY" in the paragraph caption and inserting "FIDUCIARY, OR TRUST".

SA 4567. Mr. REID (for Mrs. MURRAY (for herself, Mr. HARKIN, Mr. REID, and Mr. SCHUMER)) proposed an amendment to the bill H.R. 1586, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "_____ Act of _____".

TITLE I

EDUCATION JOBS FUND

EDUCATION JOBS FUNDS

SEC. 101. There are authorized to be appropriated and there are appropriated out of any money in the Treasury not otherwise obligated for necessary expenses for an Education Jobs Fund, \$10,000,000,000: *Provided*, That the amount under this heading shall be administered under the terms and conditions of sections 14001 through 14013 and title XV of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) except as follows:

(1) ALLOCATION OF FUNDS.—

(A) Funds appropriated under this heading shall be available only for allocation by the Secretary of Education (in this heading referred to as the Secretary) in accordance with subsections (a), (b), (d), (e), and (f) of section 14001 of division A of Public Law 111-5 and subparagraph (B) of this paragraph, except that the amount reserved under such subsection (b) shall not exceed \$1,000,000 and such subsection (f) shall be applied by substituting one year for two years.

(B) Prior to allocating funds to States under section 14001(d) of division A of Public Law 111-5, the Secretary shall allocate 0.5 percent to the Secretary of the Interior for schools operated or funded by the Bureau of Indian Affairs on the basis of the schools' respective needs for activities consistent with this heading under such terms and conditions as the Secretary of the Interior may determine.

(2) RESERVATION.—A State that receives an allocation of funds appropriated under this heading may reserve not more than 2 percent for the administrative costs of carrying out its responsibilities with respect to those funds.

(3) AWARDS TO LOCAL EDUCATIONAL AGENCIES.—

(A) Except as specified in paragraph (2), an allocation of funds to a State shall be used only for awards to local educational agencies for the support of elementary and secondary education in accordance with paragraph (5) for the 2010-2011 school year (or, in the case of reallocations made under section 14001(f) of division A of Public Law 111-5, for the 2010-2011 or the 2011-2012 school year).

(B) Funds used to support elementary and secondary education shall be distributed through a State's primary elementary and secondary funding formulae or based on local educational agencies' relative shares of funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent fiscal year for which data are available.

(C) Subsections (a) and (b) of section 14002 of division A of Public Law 111-5 shall not apply to funds appropriated under this heading.

(4) COMPLIANCE WITH EDUCATION REFORM ASSURANCES.—For purposes of awarding funds appropriated under this heading, any State that has an approved application for Phase II of the State Fiscal Stabilization Fund that was submitted in accordance with the application notice published in the Federal Register on November 17, 2009 (74 Fed. Reg. 59142) shall be deemed to be in compliance with subsection (b) and paragraphs (2) through (5) of subsection (d) of section 14005 of division A of Public Law 111-5.

(5) REQUIREMENT TO USE FUNDS TO RETAIN OR CREATE EDUCATION JOBS.—Notwithstanding section 14003(a) of division A of Public Law 111-5, funds awarded to local educational agencies under paragraph (3)—

(A) may be used only for compensation and benefits and other expenses, such as support services, necessary to retain existing employees, to recall or rehire former employees, and to hire new employees, in order to provide early childhood, elementary, or secondary educational and related services; and

(B) may not be used for general administrative expenses or for other support services expenditures as those terms were defined by the National Center for Education Statistics in its Common Core of Data as of the date of enactment of this Act.

(6) PROHIBITION ON USE OF FUNDS FOR RAINY-DAY FUNDS OR DEBT RETIREMENT.—A State that receives an allocation may not use such funds, directly or indirectly, to—

(A) establish, restore, or supplement a rainy-day fund;

(B) supplant State funds in a manner that has the effect of establishing, restoring, or supplementing a rainy-day fund;

(C) reduce or retire debt obligations incurred by the State; or

(D) supplant State funds in a manner that has the effect of reducing or retiring debt obligations incurred by the State.

(7) DEADLINE FOR AWARD.—The Secretary shall award funds appropriated under this heading not later than 45 days after the date of the enactment of this Act to States that

have submitted applications meeting the requirements applicable to funds under this heading. The Secretary shall not require information in applications beyond what is necessary to determine compliance with applicable provisions of law.

(8) ALTERNATE DISTRIBUTION OF FUNDS.—If, within 30 days after the date of the enactment of this Act, a Governor has not submitted an approvable application, the Secretary shall provide for funds allocated to that State to be distributed to another entity or other entities in the State (notwithstanding section 14001(e) of division A of Public Law 111-5) for support of elementary and secondary education, under such terms and conditions as the Secretary may establish, provided that all terms and conditions that apply to funds appropriated under this heading shall apply to such funds distributed to such entity or entities. No distribution shall be made to a State under this paragraph, however, unless the Secretary has determined (on the basis of such information as may be available) that the requirements of clauses (i), (ii), or (iii) of paragraph 10(A) are likely to be met, notwithstanding the lack of an application from the Governor of that State.

(9) LOCAL EDUCATIONAL AGENCY APPLICATION.—Section 442 of the General Education Provisions Act shall not apply to a local educational agency that has previously submitted an application to the State under title XIV of division A of Public Law 111-5. The assurances provided under that application shall continue to apply to funds awarded under this heading.

(10) MAINTENANCE OF EFFORT.—

(A) Except as provided in paragraph (8), the Secretary shall not allocate funds to a State under paragraph (1) unless the Governor of the State provides an assurance to the Secretary that—

(i) for State fiscal year 2011, the State will maintain State support for elementary and secondary education (in the aggregate or on the basis of expenditures per pupil) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at not less than the level of such support for each of the two categories, respectively, for State fiscal year 2009;

(ii) for State fiscal year 2011, the State will maintain State support for elementary and secondary education and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for each of the two categories, respectively, for State fiscal year 2010; or

(iii) in the case of a State in which State tax collections for calendar year 2009 were less than State tax collections for calendar year 2006, for State fiscal year 2011 the State will maintain State support for elementary and secondary education (in the aggregate) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students)—

(I) at not less than the level of such support for each of the two categories, respectively, for State fiscal year 2006; or

(II) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for each of the two categories, respectively, for State fiscal year 2006.

(B) Section 14005(d)(1) and subsections (a) through (c) of section 14012 of division A of Public Law 111-5 shall not apply to funds appropriated under this heading.

(11) ADDITIONAL REQUIREMENTS FOR THE STATE OF TEXAS.—The following requirements shall apply to the State of Texas:

(A) Notwithstanding paragraph (3)(B), funds used to support elementary and secondary education shall be distributed based on local educational agencies' relative shares of funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent fiscal year which data are available. Funds distributed pursuant to this paragraph shall be used to supplement and not supplant State formula funding that is distributed on a similar basis to part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(B) The Secretary shall not allocate funds to the State of Texas under paragraph (1) unless the Governor of the State provides an assurance to the Secretary that the State will for fiscal years 2011, 2012, and 2013 maintain State support for elementary and secondary education at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for such purpose for fiscal year 2011 prior to the enactment of this Act.

(C) Notwithstanding paragraph (8), no distribution shall be made to the State of Texas or local education agencies therein unless the Governor of Texas makes an assurance to the Secretary that the requirements in paragraphs (11)(A) and (11)(B) will be met, notwithstanding the lack of an application from the Governor of Texas.

TITLE II—STATE FISCAL RELIEF AND OTHER PROVISIONS; REVENUE OFFSETS

Subtitle A—State Fiscal Relief and Other Provisions

EXTENSION OF ARRA INCREASE IN FMAP

SEC. 201.

Section 5001 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) is amended—

(1) in subsection (a)(3), by striking "first calendar quarter" and inserting "first 3 calendar quarters";

(2) in subsection (b)—

(A) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(B) by adding at the end the following:

“(3) PHASE-DOWN OF GENERAL INCREASE.—

“(A) SECOND QUARTER OF FISCAL YEAR 2011.—For each State, for the second quarter of fiscal year 2011, the FMAP percentage increase for the State under paragraph (1) or (2) (as applicable) shall be 3.2 percentage points.

“(B) THIRD QUARTER OF FISCAL YEAR 2011.—For each State, for the third quarter of fiscal year 2011, the FMAP percentage increase for the State under paragraph (1) or (2) (as applicable) shall be 1.2 percentage points.”;

(3) in subsection (c)—

(A) in paragraph (2)(B), by striking "July 1, 2010" and inserting "January 1, 2011";

(B) in paragraph (3)(B)(i), by striking "July 1, 2010" and inserting "January 1, 2011" each place it appears; and

(C) in paragraph (4)(C)(ii), by striking "the 3-consecutive-month period beginning with January 2010" and inserting "any 3-consecutive-month period that begins after December 2009 and ends before January 2011";

(4) in subsection (e), by adding at the end the following:

“Notwithstanding paragraph (5), effective for payments made on or after January 1, 2010, the increases in the FMAP for a State under this section shall apply to payments under title XIX of such Act that are attributable to expenditures for medical assistance provided to nonpregnant childless adults made eligible under a State plan under such title (including under any waiver under such title or

under section 1115 of such Act (42 U.S.C. 1315)) who would have been eligible for child health assistance or other health benefits under eligibility standards in effect as of December 31, 2009, of a waiver of the State child health plan under the title XXI of such Act.”;

(5) in subsection (g)—

(A) in paragraph (1), by striking “September 30, 2011” and inserting “March 31, 2012”;

(B) in paragraph (2), by inserting “of such Act” after “1923”; and

(C) by adding at the end the following:

“(3) CERTIFICATION BY CHIEF EXECUTIVE OFFICER.—No additional Federal funds shall be paid to a State as a result of this section with respect to a calendar quarter occurring during the period beginning on January 1, 2011, and ending on June 30, 2011, unless, not later than 45 days after the date of enactment of this paragraph, the chief executive officer of the State certifies that the State will request and use such additional Federal funds.”; and

(6) in subsection (h)(3), by striking “December 31, 2010” and inserting “June 30, 2011”.

TREATMENT OF CERTAIN DRUGS FOR COMPUTATION OF MEDICAID AMP

SEC. 202.

Effective as if included in the enactment of Public Law 111-148, section 1927(k)(1)(B)(i)(IV) of the Social Security Act (42 U.S.C. 1396r-8(k)(1)(B)(i)(IV)), as amended by section 2503(a)(2)(B) of Public Law 111-148 and section 1101(c)(2) of Public Law 111-152, is amended by adding at the end the following: “, unless the drug is an inhalation, infusion, instilled, implanted, or injectable drug that is not generally dispensed through a retail community pharmacy; and”.

SUNSET OF TEMPORARY INCREASE IN BENEFITS UNDER THE SUPPLEMENTAL NUTRITION AS- SISTANCE PROGRAM

SEC. 203.

Section 101(a) of title I of division A of Public Law 111-5 (123 Stat. 120), as amended by section 4262 of this Act, is amended by striking paragraph (2) and inserting the following:

“(2) TERMINATION.—The authority provided by this subsection shall terminate after March 31, 2015.”.

Subtitle B—Revenue Offsets

RULES TO PREVENT SPLITTING FOREIGN TAX CREDITS FROM THE INCOME TO WHICH THEY RELATE

SEC. 211.

(a) IN GENERAL.—Subpart A of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 909. SUSPENSION OF TAXES AND CREDITS UNTIL RELATED INCOME TAKEN INTO ACCOUNT.

“(a) IN GENERAL.—If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by the taxpayer, such tax shall not be taken into account for purposes of this title before the taxable year in which the related income is taken into account under this chapter by the taxpayer.

“(b) SPECIAL RULES WITH RESPECT TO SECTION 902 CORPORATIONS.—If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by a section 902 corporation, such tax shall not be taken into account—

“(1) for purposes of section 902 or 960, or

“(2) for purposes of determining earnings and profits under section 964(a), before the taxable year in which the related income is taken into account under this chapter by such section 902 corporation or a

domestic corporation which meets the ownership requirements of subsection (a) or (b) of section 902 with respect to such section 902 corporation.

“(c) SPECIAL RULES.—For purposes of this section—

“(1) APPLICATION TO PARTNERSHIPS, ETC.—In the case of a partnership, subsections (a) and (b) shall be applied at the partner level. Except as otherwise provided by the Secretary, a rule similar to the rule of the preceding sentence shall apply in the case of any S corporation or trust.

“(2) TREATMENT OF FOREIGN TAXES AFTER SUSPENSION.—In the case of any foreign income tax not taken into account by reason of subsection (a) or (b), except as otherwise provided by the Secretary, such tax shall be so taken into account in the taxable year referred to in such subsection (other than for purposes of section 986(a)) as a foreign income tax paid or accrued in such taxable year.

“(d) DEFINITIONS.—For purposes of this section—

“(1) FOREIGN TAX CREDIT SPLITTING EVENT.—There is a foreign tax credit splitting event with respect to a foreign income tax if the related income is (or will be) taken into account under this chapter by a covered person.

“(2) FOREIGN INCOME TAX.—The term ‘foreign income tax’ means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

“(3) RELATED INCOME.—The term ‘related income’ means, with respect to any portion of any foreign income tax, the income (or, as appropriate, earnings and profits) to which such portion of foreign income tax relates.

“(4) COVERED PERSON.—The term ‘covered person’ means, with respect to any person who pays or accrues a foreign income tax (hereafter in this paragraph referred to as the ‘payor’)—

“(A) any entity in which the payor holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value),

“(B) any person which holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value) in the payor,

“(C) any person which bears a relationship to the payor described in section 267(b) or 707(b), and

“(D) any other person specified by the Secretary for purposes of this paragraph.

“(5) SECTION 902 CORPORATION.—The term ‘section 902 corporation’ means any foreign corporation with respect to which one or more domestic corporations meets the ownership requirements of subsection (a) or (b) of section 902.

“(e) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provides—

“(1) appropriate exceptions from the provisions of this section, and

“(2) for the proper application of this section with respect to hybrid instruments.”.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 909. Suspension of taxes and credits until related income taken into account.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) foreign income taxes (as defined in section 909(d) of the Internal Revenue Code of 1986, as added by this section) paid or ac-

crued in taxable years beginning after December 31, 2010; and

(2) foreign income taxes (as so defined) paid or accrued by a section 902 corporation (as so defined) in taxable years beginning on or before such date (and not deemed paid under section 902(a) or 960 of such Code on or before such date), but only for purposes of applying sections 902 and 960 with respect to periods after such date.

Section 909(b)(2) of the Internal Revenue Code of 1986, as added by this section, shall not apply to foreign income taxes described in paragraph (2).

DENIAL OF FOREIGN TAX CREDIT WITH RESPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED STATES TAXATION BY REASON OF COVERED ASSET ACQUISITIONS

SEC. 212.

(a) IN GENERAL.—Section 901 of the Internal Revenue Code of 1986 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

“(m) DENIAL OF FOREIGN TAX CREDIT WITH RESPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED STATES TAXATION BY REASON OF COVERED ASSET ACQUISITIONS.—

“(1) IN GENERAL.—In the case of a covered asset acquisition, the disqualified portion of any foreign income tax determined with respect to the income or gain attributable to the relevant foreign assets—

“(A) shall not be taken into account in determining the credit allowed under subsection (a), and

“(B) in the case of a foreign income tax paid by a section 902 corporation (as defined in section 909(d)(5)), shall not be taken into account for purposes of section 902 or 960.

“(2) COVERED ASSET ACQUISITION.—For purposes of this section, the term ‘covered asset acquisition’ means—

“(A) a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies,

“(B) any transaction which—

“(i) is treated as an acquisition of assets for purposes of this chapter, and

“(ii) is treated as the acquisition of stock of a corporation (or is disregarded) for purposes of the foreign income taxes of the relevant jurisdiction,

“(C) any acquisition of an interest in a partnership which has an election in effect under section 754, and

“(D) to the extent provided by the Secretary, any other similar transaction.

“(3) DISQUALIFIED PORTION.—For purposes of this section—

“(A) IN GENERAL.—The term ‘disqualified portion’ means, with respect to any covered asset acquisition, for any taxable year, the ratio (expressed as a percentage) of—

“(i) the aggregate basis differences (but not below zero) allocable to such taxable year under subparagraph (B) with respect to all relevant foreign assets, divided by

“(ii) the income on which the foreign income tax referred to in paragraph (1) is determined (or, if the taxpayer fails to substantiate such income to the satisfaction of the Secretary, such income shall be determined by dividing the amount of such foreign income tax by the highest marginal tax rate applicable to such income in the relevant jurisdiction).

“(B) ALLOCATION OF BASIS DIFFERENCE.—For purposes of subparagraph (A)(i)—

“(i) IN GENERAL.—The basis difference with respect to any relevant foreign asset shall be allocated to taxable years using the applicable cost recovery method under this chapter.

“(ii) SPECIAL RULE FOR DISPOSITION OF ASSETS.—Except as otherwise provided by the Secretary, in the case of the disposition of any relevant foreign asset—

“(I) the basis difference allocated to the taxable year which includes the date of such disposition shall be the excess of the basis difference with respect to such asset over the aggregate basis difference with respect to such asset which has been allocated under clause (i) to all prior taxable years, and

“(II) no basis difference with respect to such asset shall be allocated under clause (i) to any taxable year thereafter.

“(C) BASIS DIFFERENCE.—

“(i) IN GENERAL.—The term ‘basis difference’ means, with respect to any relevant foreign asset, the excess of—

“(I) the adjusted basis of such asset immediately after the covered asset acquisition, over

“(II) the adjusted basis of such asset immediately before the covered asset acquisition.

“(ii) BUILT-IN LOSS ASSETS.—In the case of a relevant foreign asset with respect to which the amount described in clause (i)(II) exceeds the amount described in clause (i)(I), such excess shall be taken into account under this subsection as a basis difference of a negative amount.

“(iii) SPECIAL RULE FOR SECTION 338 ELECTIONS.—In the case of a covered asset acquisition described in paragraph (2)(A), the covered asset acquisition shall be treated for purposes of this subparagraph as occurring at the close of the acquisition date (as defined in section 338(h)(2)).

“(4) RELEVANT FOREIGN ASSETS.—For purposes of this section, the term ‘relevant foreign asset’ means, with respect to any covered asset acquisition, any asset (including any goodwill, going concern value, or other intangible) with respect to such acquisition if income, deduction, gain, or loss attributable to such asset is taken into account in determining the foreign income tax referred to in paragraph (1).

“(5) FOREIGN INCOME TAX.—For purposes of this section, the term ‘foreign income tax’ means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

“(6) TAXES ALLOWED AS A DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.

“(7) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including to exempt from the application of this subsection certain covered asset acquisitions, and relevant foreign assets with respect to which the basis difference is de minimis.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to covered asset acquisitions (as defined in section 901(m)(2) of the Internal Revenue Code of 1986, as added by this section) after December 31, 2010.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any covered asset acquisition (as so defined) with respect to which the transferor and the transferee are not related if such acquisition is—

(A) made pursuant to a written agreement which was binding on January 1, 2011, and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before May 20, 2010, or

(C) described on or before January 1, 2011, in a public announcement or in a filing with the Securities and Exchange Commission.

(3) RELATED PERSONS.—For purposes of this subsection, a person shall be treated as related to another person if the relationship between such persons is described in section

267 or 707(b) of the Internal Revenue Code of 1986.

SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATION, ETC., TO ITEMS RESOURCED UNDER TREATIES

SEC. 213.

(a) IN GENERAL.—Subsection (d) of section 904 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

“(6) SEPARATE APPLICATION TO ITEMS RESOURCED UNDER TREATIES.—

“(A) IN GENERAL.—If—

“(i) without regard to any treaty obligation of the United States, any item of income would be treated as derived from sources within the United States,

“(ii) under a treaty obligation of the United States, such item would be treated as arising from sources outside the United States, and

“(iii) the taxpayer chooses the benefits of such treaty obligation,

subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to each such item.

“(B) COORDINATION WITH OTHER PROVISIONS.—This paragraph shall not apply to any item of income to which subsection (h)(10) or section 865(h) applies.

“(C) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance which provides that related items of income may be aggregated for purposes of this paragraph.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

LIMITATION ON THE AMOUNT OF FOREIGN TAXES DEEMED PAID WITH RESPECT TO SECTION 956 INCLUSIONS

SEC. 214.

(a) IN GENERAL.—Section 960 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(c) LIMITATION WITH RESPECT TO SECTION 956 INCLUSIONS.—

“(1) IN GENERAL.—If there is included under section 951(a)(1)(B) in the gross income of a domestic corporation any amount attributable to the earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, the amount of any foreign income taxes deemed to have been paid during the taxable year by such domestic corporation under section 902 by reason of subsection (a) with respect to such inclusion in gross income shall not exceed the amount of the foreign income taxes which would have been deemed to have been paid during the taxable year by such domestic corporation if cash in an amount equal to the amount of such inclusion in gross income were distributed as a series of distributions (determined without regard to any foreign taxes which would be imposed on an actual distribution) through the chain of ownership which begins with such foreign corporation and ends with such domestic corporation.

“(2) AUTHORITY TO PREVENT ABUSE.—The Secretary shall issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which prevent the inappropriate use of the foreign corporation's foreign income taxes not deemed paid by reason of paragraph (1).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to acquisitions of United States property (as defined in

section 956(c) of the Internal Revenue Code of 1986) after December 31, 2010.

SPECIAL RULE WITH RESPECT TO CERTAIN REDEMPTIONS BY FOREIGN SUBSIDIARIES

SEC. 215.

(a) IN GENERAL.—Paragraph (5) of section 304(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) SPECIAL RULE IN CASE OF FOREIGN ACQUIRING CORPORATION.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, no earnings and profits shall be taken into account under paragraph (2)(A) (and subparagraph (A)) shall not apply if more than 50 percent of the dividends arising from such acquisition (determined without regard to this subparagraph) would neither—

“(i) be subject to tax under this chapter for the taxable year in which the dividends arise, nor

“(ii) be includible in the earnings and profits of a controlled foreign corporation (as defined in section 957 and without regard to section 953(c)).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

MODIFICATION OF AFFILIATION RULES FOR PURPOSES OF RULES ALLOCATING INTEREST EXPENSE

SEC. 216.

(a) IN GENERAL.—Subparagraph (A) of section 864(e)(5) of the Internal Revenue Code of 1986 is amended by adding at the end the following: “Notwithstanding the preceding sentence, a foreign corporation shall be treated as a member of the affiliated group if—

“(i) more than 50 percent of the gross income of such foreign corporation for the taxable year is effectively connected with the conduct of a trade or business within the United States, and

“(ii) at least 80 percent of either the vote or value of all outstanding stock of such foreign corporation is owned directly or indirectly by members of the affiliated group (determined with regard to this sentence).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TERMINATION OF SPECIAL RULES FOR INTEREST AND DIVIDENDS RECEIVED FROM PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS REQUIREMENTS

SEC. 217.

(a) IN GENERAL.—Paragraph (1) of section 861(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(b) GRANDFATHER RULE WITH RESPECT TO WITHHOLDING ON INTEREST AND DIVIDENDS RECEIVED FROM PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS REQUIREMENTS.—

(1) IN GENERAL.—Subparagraph (B) of section 871(i)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

“(B) The active foreign business percentage of—

“(i) any dividend paid by an existing 80/20 company, and

“(ii) any interest paid by an existing 80/20 company.”.

(2) DEFINITIONS AND SPECIAL RULES.—Section 871 of such Code is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

“(l) RULES RELATING TO EXISTING 80/20 COMPANIES.—For purposes of this subsection and subsection (i)(2)(B)—

“(1) EXISTING 80/20 COMPANY.—

“(A) IN GENERAL.—The term ‘existing 80/20 company’ means any corporation if—

“(i) such corporation met the 80-percent foreign business requirements of section 861(c)(1) (as in effect before the date of the enactment of this subsection) for such corporation’s last taxable year beginning before January 1, 2011,

“(ii) such corporation meets the 80-percent foreign business requirements of subparagraph (B) with respect to each taxable year after the taxable year referred to in clause (i), and

“(iii) there has not been an addition of a substantial line of business with respect to such corporation after the date of the enactment of this subsection.

“(B) FOREIGN BUSINESS REQUIREMENTS.—

“(i) IN GENERAL.—Except as provided in clause (iv), a corporation meets the 80-percent foreign business requirements of this subparagraph if it is shown to the satisfaction of the Secretary that at least 80 percent of the gross income from all sources of such corporation for the testing period is active foreign business income.

“(ii) ACTIVE FOREIGN BUSINESS INCOME.—For purposes of clause (i), the term ‘active foreign business income’ means gross income which—

“(I) is derived from sources outside the United States (as determined under this subchapter), and

“(II) is attributable to the active conduct of a trade or business in a foreign country or possession of the United States.

“(iii) TESTING PERIOD.—For purposes of this subsection, the term ‘testing period’ means the 3-year period ending with the close of the taxable year of the corporation preceding the payment (or such part of such period as may be applicable). If the corporation has no gross income for such 3-year period (or part thereof), the testing period shall be the taxable year in which the payment is made.

“(iv) TRANSITION RULE.—In the case of a taxable year for which the testing period includes 1 or more taxable years beginning before January 1, 2011—

“(I) a corporation meets the 80-percent foreign business requirements of this subparagraph if and only if the weighted average of—

“(aa) the percentage of the corporation’s gross income from all sources that is active foreign business income (as defined in subparagraph (B) of section 861(c)(1) (as in effect before the date of the enactment of this subsection)) for the portion of the testing period that includes taxable years beginning before January 1, 2011, and

“(bb) the percentage of the corporation’s gross income from all sources that is active foreign business income (as defined in clause (ii) of this subparagraph) for the portion of the testing period, if any, that includes taxable years beginning on or after January 1, 2011,

is at least 80 percent, and

“(II) the active foreign business percentage for such taxable year shall equal the weighted average percentage determined under subclause (I).

“(2) ACTIVE FOREIGN BUSINESS PERCENTAGE.—Except as provided in paragraph (1)(B)(iv), the term ‘active foreign business percentage’ means, with respect to any existing 80/20 company, the percentage which—

“(A) the active foreign business income of such company for the testing period, is of

“(B) the gross income of such company for the testing period from all sources.

“(3) AGGREGATION RULES.—For purposes of applying paragraph (1) (other than subparagraphs (A)(i) and (B)(iv) thereof) and paragraph (2)—

“(A) IN GENERAL.—The corporation referred to in paragraph (1)(A) and all of such corporation’s subsidiaries shall be treated as one corporation.

“(B) SUBSIDIARIES.—For purposes of subparagraph (A), the term ‘subsidiary’ means any corporation in which the corporation referred to in subparagraph (A) owns (directly or indirectly) stock meeting the requirements of section 1504(a)(2) (determined by substituting ‘50 percent’ for ‘80 percent’ each place it appears and without regard to section 1504(b)(3)).

“(4) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provide for the proper application of the aggregation rules described in paragraph (3).”

(c) CONFORMING AMENDMENTS.—

(1) Section 861 of the Internal Revenue Code of 1986 is amended by striking subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) Paragraph (9) of section 904(h) of such Code is amended to read as follows:

“(9) TREATMENT OF CERTAIN DOMESTIC CORPORATIONS.—In the case of any dividend treated as not from sources within the United States under section 861(a)(2)(A), the corporation paying such dividend shall be treated for purposes of this subsection as a United States-owned foreign corporation.”

(3) Subsection (c) of section 2104 of such Code is amended in the last sentence by striking “or to a debt obligation of a domestic corporation” and all that follows and inserting a period.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2010.

(2) GRANDFATHER RULE FOR OUTSTANDING DEBT OBLIGATIONS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to payments of interest on obligations issued before the date of the enactment of this Act.

(B) EXCEPTION FOR RELATED PARTY DEBT.—Subparagraph (A) shall not apply to any interest which is payable to a related person (determined under rules similar to the rules of section 954(d)(3)).

(C) SIGNIFICANT MODIFICATIONS TREATED AS NEW ISSUES.—For purposes of subparagraph (A), a significant modification of the terms of any obligation (including any extension of the term of such obligation) shall be treated as a new issue.

LIMITATION ON EXTENSION OF STATUTE OF LIMITATIONS FOR FAILURE TO NOTIFY SECRETARY OF CERTAIN FOREIGN TRANSFERS

SEC. 218.

(a) IN GENERAL.—Paragraph (8) of section 6501(c) of the Internal Revenue Code of 1986 is amended—

(1) by striking “In the case of any information” and inserting the following:

“(A) IN GENERAL.—In the case of any information”; and

(2) by adding at the end the following:

“(B) APPLICATION TO FAILURES DUE TO REASONABLE CAUSE.—If the failure to furnish the information referred to in subparagraph (A) is due to reasonable cause and not willful neglect, subparagraph (A) shall apply only to the item or items related to such failure.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 513 of the Hiring Incentives to Restore Employment Act.

TITLE III

RESCISSIONS

SEC. 301. There is rescinded from accounts under the heading “Department of Agriculture—Rural Development”, \$122,000,000, to be derived from the unobligated balances of funds that were provided for such accounts in prior appropriation Acts (other than Public Law 111-5) and that were designated by the Congress in such Acts as an emergency requirement pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 302. Of the funds made available for “Department of Agriculture—Rural Utilities Service—Distance Learning, Telemedicine, and Broadband Program” in title I of division A of Public Law 111-5 (123 Stat. 118), \$300,000,000 are rescinded.

SEC. 303. There is rescinded from accounts under the heading “Department of Agriculture—Food and Nutrition Service—Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)”, \$361,825,000, to be derived from unobligated balances available from amounts placed in reserve in title I of division A of Public Law 111-5 (123 Stat. 115).

SEC. 304. Of the funds made available for “Department of Commerce—National Telecommunications and Information Administration—Broadband Technology Opportunities Program” in title II of division A of Public Law 111-5, \$302,000,000 are rescinded.

SEC. 305. (a) Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are rescinded from the following accounts in the specified amounts:

“Shipbuilding and Conversion, Navy, 2006/2010”, \$107,000,000;

“Aircraft Procurement, Army, 2008/2010”, \$21,000,000;

“Procurement of Weapons and Tracked Combat Vehicles, Army, 2008/2010”, \$21,000,000;

“Procurement of Ammunition, Army, 2008/2010”, \$17,000,000;

“Other Procurement, Army, 2008/2010”, \$75,000,000;

“Weapons Procurement, Navy, 2008/2010”, \$26,000,000;

“Other Procurement, Navy, 2008/2010”, \$42,000,000;

“Procurement, Marine Corps, 2008/2010”, \$13,000,000;

“Aircraft Procurement, Air Force, 2008/2010”, \$102,000,000;

“Missile Procurement, Air Force, 2008/2010”, \$28,000,000;

“Procurement of Ammunition, Air Force, 2008/2010”, \$7,000,000;

“Other Procurement, Air Force, 2008/2010”, \$130,000,000;

“Procurement, Defense-Wide, 2008/2010”, \$33,000,000;

“Research, Development, Test and Evaluation, Army, 2009/2010”, \$76,000,000;

“Research, Development, Test and Evaluation, Navy, 2009/2010”, \$131,000,000;

“Research, Development, Test and Evaluation, Air Force, 2009/2010”, \$164,000,000;

“Research, Development, Test and Evaluation, Defense-Wide, 2009/2010”, \$137,000,000;

“Operation, Test and Evaluation, Defense, 2009/2010”, \$1,000,000;

“Operation and Maintenance, Army, 2010”, \$154,000,000;

“Operation and Maintenance, Navy, 2010”, \$155,000,000;

“Operation and Maintenance, Marine Corps, 2010”, \$25,000,000;

“Operation and Maintenance, Air Force, 2010”, \$155,000,000;

“Operation and Maintenance, Defense-Wide, 2010”, \$126,000,000;

“Operation and Maintenance, Army Reserve, 2010”, \$12,000,000;

“Operation and Maintenance, Navy Reserve, 2010”, \$6,000,000;

“Operation and Maintenance, Marine Corps Reserve, 2010”, \$1,000,000;

“Operation and Maintenance, Air Force Reserve, 2010”, \$14,000,000;

“Operation and Maintenance, Army National Guard, 2010”, \$28,000,000; and

“Operation and Maintenance, Air National Guard, 2010”, \$27,000,000.

(b) Section 3002 shall not apply to amounts in this section.

SEC. 306. (a) Of the funds appropriated in the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), the following funds are rescinded from the following accounts in the specified amounts:

“Operation and Maintenance, Army, 2009/2010”, \$113,500,000;

“Operation and Maintenance, Navy, 2009/2010”, \$34,000,000;

“Operation and Maintenance, Marine Corps, 2009/2010”, \$7,000,000;

“Operation and Maintenance, Air Force, 2009/2010”, \$61,000,000;

“Operation and Maintenance, Army Reserve, 2009/2010”, \$3,500,000;

“Operation and Maintenance, Navy Reserve, 2009/2010”, \$8,000,000;

“Operation and Maintenance, Marine Corps Reserve, 2009/2010”, \$1,000,000;

“Operation and Maintenance, Air Force Reserve, 2009/2010”, \$2,000,000;

“Operation and Maintenance, Army National Guard, 2009/2010”, \$1,000,000;

“Operation and Maintenance, Air National Guard, 2009/2010”, \$2,500,000; and

“Defense Health Program, 2009/2010”, \$27,000,000.

(b) Of the funds appropriated in the Supplemental Appropriations Act, 2008 (Public Law 110-252), the following funds are rescinded from the following account in the specified amount:

“Procurement, Marine Corps, 2009/2011”, \$122,000,000.

SEC. 307. (a) Of the funds appropriated for “Procurement of Weapons and Tracked Combat Vehicles, Army” in title III of division A of public Law 111-118, \$116,000,000 are rescinded.

(b) Of the funds appropriated for “Other Procurement, Army” in title III of division C of Public Law 110-329, \$87,000,000 are rescinded.

(c) Section 3002 shall not apply to amounts in this section.

SEC. 308. (a) There are rescinded the following amounts from the specified accounts:

(1) \$20,000,000, to be derived from unobligated balances of funds made available in prior appropriations Acts under the heading “Department of Energy—Nuclear Energy”.

(b) Section 3002 shall not apply to amounts in this section.

SEC. 309. Of the unobligated balances of funds provided under the heading “Nuclear Regulatory Commission” in prior appropriations Acts, \$18,000,000 is permanently rescinded: *Provided*, That section 3002 shall not apply to the amount in this section.

SEC. 310. Of the funds made available for “Department of Energy—Title 17—Innovative Technology Loan Guarantee Program” in title III of division A of Public Law 111-5, \$1,500,000,000 are rescinded.

SEC. 311. There are permanently rescinded from “General Services Administration—Real Property Activities—Federal Building Fund”, \$75,000,000 from Rental of Space and \$25,000,000 from Building Operations, to be derived from unobligated balances that were provided in previous appropriations Acts: *Provided*, That section 3002 shall not apply to the amount in this section.

SEC. 312. Of the funds made available for “Bureau of Indian Affairs—Indian Guaranteed Loan Program Account” in title VII of

division A of Public Law 111-5, \$6,820,000 are rescinded.

SEC. 313. Of the funds made available for “Environmental Protection Agency—Hazardous Substance Superfund” in title VII of division A of Public Law 111-5, \$2,600,000 are rescinded.

SEC. 314. Of the funds made available for “Environmental Protection Agency—Leaking Underground Storage Tank Trust Fund Program” in title VII of division A of Public Law 111-5, \$9,200,000 are rescinded.

SEC. 315. Of the funds made available for transfer in title VII of division A of Public Law 111-5, “Environmental Protection Agency—Environmental Programs and Management”, \$10,000,000 are rescinded.

SEC. 316. Of the funds made available for “National Park Service—Construction” in chapter 7 of division B of Public Law 108-324, \$4,800,000 are rescinded.

SEC. 317. Of the funds made available for “National Park Service—Construction” in chapter 5 of title II of Public Law 109-234, \$6,400,000 are rescinded.

SEC. 318. Of the funds made available for “Fish and Wildlife Service—Construction” in chapter 6 of title I of division B of Public Law 110-329, \$3,000,000 are rescinded.

SEC. 319. The unobligated balance of funds appropriated in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995 (Public Law 103-333; 108 Stat. 2574) under the heading “Public Health and Social Services Emergency Fund” is rescinded.

SEC. 320. Of the funds appropriated for the Commissioner of Social Security under section 2201(e)(2)(B) in title II of division B of Public Law 111-5, \$47,000,000 are rescinded.

SEC. 321. Of the funds appropriated in part VI of subtitle I of title II of division B of Public Law 111-5, \$110,000,000 are rescinded, to be derived only from the amount provided under section 1899K(b) of such title.

SEC. 322. Of the funds appropriated for “Department of Education—Education for the Disadvantaged” in division D of Public Law 111-117, \$50,000,000 are rescinded, to be derived only from the amount provided for a comprehensive literacy development and education program under section 1502 of the Elementary and Secondary Education Act of 1965: *Provided*, That section 3002 of this Act shall not apply to this amount.

SEC. 323. Of the funds appropriated for “Department of Education—Student Aid Administration” in division D of Public Law 111-117, \$82,000,000 are rescinded: *Provided*, That section 3002 of this Act shall not apply to this amount.

SEC. 324. Of the funds appropriated for “Department of Education—Innovation and Improvement” in division D of Public Law 111-117, \$10,700,000 are rescinded, to be derived only from the amount provided to carry out subpart 8 of part D of title V of the Elementary and Secondary Education Act of 1965: *Provided*, That section 3002 of this Act shall not apply to this amount.

SEC. 325. Of the unobligated balances available under “Department of Defense, Military Construction, Army” from prior appropriations Acts, \$340,000,000 is rescinded: *Provided*, That no funds may be rescinded from amounts that were designated by the Congress as an emergency requirement or as appropriations for overseas deployments and other activities pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That section 3002 shall not apply to the amount in this section.

SEC. 326. Of the unobligated balances available under “Department of Defense, Military Construction, Navy and Marine Corps” from prior appropriations Acts, \$110,000,000 is re-

scinded: *Provided*, That no funds may be rescinded from amounts that were designated by the Congress as an emergency requirement or as appropriations for overseas deployments and other activities pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That section 3002 shall not apply to the amount in this section.

SEC. 327. Of the unobligated balances available under “Department of Defense, Military Construction, Air Force” from prior appropriations Acts, \$50,000,000 is rescinded: *Provided*, That no funds may be rescinded from amounts that were designated by the Congress as an emergency requirement or as appropriations for overseas deployments and other activities pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That section 3002 shall not apply to the amount in this section.

SEC. 328. Of the funds made available for the General Operating Expenses account of the Department of Veterans Affairs in section 2201(e)(4)(A)(ii) of division B of Public Law 111-5 (123 Stat. 454; 26 U.S.C. 6428 note), \$6,100,000 are rescinded.

SEC. 329. Of the amount appropriated or otherwise made available by title X of division A of Public Law 111-5, the American Recovery and Reinvestment Act of 2009, under the heading “Departmental Administration, Information Technology Systems” \$5,000,000 is hereby rescinded.

SEC. 330. (a) MILLENNIUM CHALLENGE CORPORATION.—Of the unobligated balances available under the heading “Millennium Challenge Corporation” in title III of division H of Public Law 111-8 and under such heading in prior Acts making appropriations for the Department of State, foreign operations, and related programs, \$50,000,000 are rescinded.

(b) CIVILIAN STABILIZATION INITIATIVE.—(1) DEPARTMENT OF STATE.—Of the unobligated balances available under the heading “Department of State—Administration of Foreign Affairs—Civilian Stabilization Initiative” in prior Acts making appropriations for the Department of State, foreign operations, and related programs, \$40,000,000 are rescinded.

(2) UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—Of the unobligated balances available under the heading “United States Agency for International Development—Funds Appropriated to the President—Civilian Stabilization Initiative” in prior Acts making appropriations for the Department of State, foreign operations, and related programs, \$30,000,000 are rescinded.

(c) Section 3002 shall not apply to the amounts in this section.

SEC. 331. There are rescinded the following amounts from the specified accounts:

(1) “Department of Transportation—Federal Aviation Administration—Facilities and Equipment”, \$2,182,544, to be derived from unobligated balances made available under this heading in Public Law 108-324.

(2) “Department of Transportation—Federal Aviation Administration—Facilities and Equipment”, \$5,705,750, to be derived from unobligated balances made available under this heading in Public Law 109-148.

SEC. 332. Of the unobligated balances of funds apportioned to each State under chapter 1 of title 23, United States Code, \$2,200,000,000 are permanently rescinded: *Provided*, That such rescission shall be distributed among the States in the same proportion as the funds subject to such rescission were apportioned to the States for fiscal year 2009: *Provided further*, That such rescission shall not apply to the funds distributed

in accordance with sections 130(f) and 104(b)(5) of title 23, United States Code; sections 133(d)(1) and 163 of such title, as in effect on the day before the date of enactment of Public Law 109-59; and the first sentence of section 133(d)(3)(A) of such title: *Provided further*, That notwithstanding section 1132 of Public Law 110-140, in administering the rescission required under this heading, the Secretary of Transportation shall allow each State to determine the amount of the required rescission to be drawn from the programs to which the rescission applies.

TITLE IV

BUDGETARY PROVISIONS

BUDGETARY PROVISIONS

SEC. 401. (a) STATUTORY PAYGO.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled Budgetary Effects of PAYGO Legislation for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendment between the Houses.

(b) EXCLUSION FROM PAYGO.—

(1) Savings in this Act that would be subject to inclusion in the Statutory Pay-As-You-Go scorecards are providing an offset to increased discretionary spending. As such, they should not be available on the scorecards maintained by the Office of Management and Budget to provide offsets for future legislation.

(2) The Director of the Office of Management and Budget shall not include any net savings resulting from the changes in direct spending or revenues contained in this Act on the scorecards required to be maintained by OMB under the Statutory Pay-As-You-Go Act of 2010.

SA 4568. Mr. REID proposed an amendment to amendment SA 4567 proposed by Mr. REID (for Mrs. MURRAY (for herself, Mr. HARKIN, Mr. REID, and Mr. SCHUMER)) to the bill H.R. 1586, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of the amendment, insert the following:

The provisions of this Act shall become effective 5 days after enactment.

SA 4569. Mr. REID proposed an amendment to the bill H.R. 1586, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end insert the following:

The Appropriations Committee is requested to study the impact of any delay in providing funding to educators across the country.

SA 4570. Mr. REID proposed an amendment to amendment SA 4569 proposed by Mr. REID to the bill H.R. 1586,

to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end, insert the following: “and include any data on the impact on local school districts”.

SA 4571. Mr. REID proposed an amendment to amendment SA 4570 proposed by Mr. REID to the amendment SA 4569 proposed by Mr. REID to the bill H.R. 1586, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end, insert the following: “and the impact on local community”.

SA 4572. Mr. MCCAIN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 5875, making emergency supplemental appropriations for border security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, and for other purposes, namely:

DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$356,900,000, to remain available until September 30, 2012, of which \$78,000,000 shall be for costs to maintain U.S. Customs and Border Protection Officer staffing on the Southwest Border of the United States, \$58,000,000 shall be for hiring additional U.S. Customs and Border Protection Officers for deployment at ports of entry on the Southwest Border of the United States, \$208,400,000 shall be for hiring additional Border Patrol agents for deployment to the Southwest Border of the United States, \$2,500,000 shall be for forward operating bases on the Southwest Border of the United States, and \$10,000,000 shall be to support integrity and background investigation programs.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For an additional amount for “Border Security Fencing, Infrastructure, and Technology”, \$14,000,000, to remain available until September 30, 2012, for costs of designing, building, and deploying tactical communications for support of enforcement activities on the Southwest Border of the United States.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for “Air and Marine Interdiction, Operations, Maintenance, and Procurement”, \$32,000,000, to remain available until September 30, 2012, for costs of acquisition and deployment of unmanned aircraft systems.

CONSTRUCTION AND FACILITIES MANAGEMENT

For an additional amount for “Construction and Facilities Management”, \$9,000,000, to remain available until September 30, 2012, for costs to construct up to three forward operating bases for use by the Border Patrol to carry out enforcement activities on the Southwest Border of the United States.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$30,000,000 to remain available until September 30, 2012, for law enforcement activities targeted at reducing the threat of violence along the Southwest Border of the United States.

FEDERAL EMERGENCY MANAGEMENT AGENCY STATE AND LOCAL PROGRAMS

For an additional amount for “State and Local Programs”, \$50,000,000, to remain available until September 30, 2011, for Operation Stonegarden.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$8,100,000, to remain available until September 30, 2011, for costs to provide basic training for new U.S. Customs and Border Protection Officers and Border Patrol agents.

GENERAL PROVISIONS

(INCLUDING RESCISSIONS)

SEC. 101.

For an additional amount for the Department of Justice for necessary expenses for increased law enforcement activities related to Southwest border enforcement, \$201,000,000, to remain available until September 30, 2012: *Provided*, That funds shall be distributed to the following accounts and in the following specified amounts—

- (1) “Administrative Review and Appeals”, \$2,118,000;
- (2) “Detention Trustee”, \$7,000,000;
- (3) “Legal Activities, Salaries and Expenses, General Legal Activities”, \$3,862,000;
- (4) “Legal Activities, Salaries and Expenses, United States Attorneys”, \$9,198,000;
- (5) “United States Marshals Service, Salaries and Expenses”, \$29,651,000;
- (6) “United States Marshals Service, Construction”, \$8,000,000;
- (7) “Interagency Law Enforcement, Interagency Crime and Drug Enforcement”, \$21,000,000;
- (8) “Federal Bureau of Investigation, Salaries and Expenses”, \$25,262,000;
- (9) “Drug Enforcement Administration, Salaries and Expenses”, \$35,805,000;
- (10) “Bureau of Alcohol, Tobacco, Firearms and Explosives, Salaries and Expenses”, \$39,104,000; and
- (11) “Federal Prison System, Salaries and Expenses”, \$20,000,000.

SEC. 102.

From unobligated balances made available to U.S. Customs and Border Protection “Border Security Fencing, Infrastructure, and Technology”, \$100,000,000 are rescinded.

SEC. 103.

Notwithstanding any other provision of law, from available funds, the Department of Defense shall pay, in fiscal years 2010 and 2011, the full costs associated with the deployment of the National Guard along the Southwest Border of the United States.

SEC. 104. USE OF STIMULUS FUNDS TO OFFSET COSTS OF BORDER SECURITY.

(a) IN GENERAL.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)

(other than under title X of division A of such Act) is rescinded on a pro rata basis so that the aggregate amount of such rescissions is equal to the net reduction in revenues to the Treasury resulting from amounts appropriated under this Act, after factoring in the rescission under section 102.

(b) REPORT.—The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

This Act may be cited as the “Emergency Border Security Supplemental Appropriations Act, 2010”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 29, 2010, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 29, 2010, at 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on July 29, 2010, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on July 29, 2010 in the President's Room.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled “The State of the American Child: The Impact of Federal Policies on Children” on July 29, 2010. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet, during the session of the Senate, on July 29, 2010, at 9:30 a.m. in room 628 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet, during the session of the Senate, on July 29, 2010, at 10 a.m. in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Terrorism and Homeland Security, be authorized to meet, during the session of the Senate, on July 29, 2010, at 2:30 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “The Passport Issuance Process: Closing the Door to Fraud, Part II.”

The PRESIDING OFFICER. Without objection, it is so ordered.

AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Mr. REID. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on July 29, 2010, at 10 a.m. to conduct a hearing entitled, “Mismanagement of Contracts at Arlington National Cemetery.”

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 29, 2010, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on July 29, 2010, at 2:30 p.m. to conduct a hearing entitled “Closing the Language Gap: Improving the Federal Government's Foreign Language Capabilities.”

The PRESIDING OFFICER. Without objection, it is so ordered.

SAVING KIDS FROM DANGEROUS DRUGS ACT OF 2010

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 477, S. 258.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title. The assistant legislative clerk read as follows:

A bill (S. 258) to amend the Controlled Substances Act to provide enhanced penalties

for marketing controlled substances to minors.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Saving Kids From Dangerous Drugs Act of 2010”.

SEC. 2. OFFENSES INVOLVING CONTROLLED SUBSTANCES MARKETED TO MINORS.

Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end the following:

“(h) OFFENSES INVOLVING CONTROLLED SUBSTANCES MARKETED TO MINORS.—

“(1) UNLAWFUL ACTS.—Except as authorized under this title, including paragraph (3), it shall be unlawful for any person at least 18 years of age to knowingly or intentionally manufacture or create, with intent to manufacture, create, distribute, or dispense, a controlled substance listed in schedule I or II that is—

“(A) combined with a candy product;

“(B) marketed or packaged to appear similar to a candy product; and

“(C) modified by flavoring or coloring the controlled substance with the intent to distribute, dispense, or sell the controlled substance to a person under 18 years of age.

“(2) PENALTIES.—Except as provided in section 418, 419, or 420, any person who violates paragraph (1) of this subsection shall be subject to—

“(A) 2 times the maximum punishment and at least 2 times any term of supervised release authorized by subsection (b) of this section for a first offense involving the same controlled substance and schedule; and

“(B) 3 times the maximum punishment and at least 3 times any term of supervised release authorized by subsection (b) of this section for a second or subsequent offense involving the same controlled substance and schedule.

“(3) EXCEPTIONS.—Paragraph (1) shall not apply to any controlled substance that—

“(A) has been approved by the Secretary under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), if the contents, marketing, and packaging of the controlled substance have not been altered from the form approved by the Secretary; or

“(B) has been altered at the direction of a practitioner who is acting for a legitimate medical purpose in the usual course of professional practice.”.

SEC. 3. SENTENCING GUIDELINES.

Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and policy statements to ensure that the guidelines provide an appropriate additional penalty increase of up to 3 offense levels above the sentence otherwise applicable in Part D of the Guidelines Manual if the defendant was convicted of a violation of section 401(h) of the Controlled Substances Act, as added by section 2 of this Act.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the committee-reported substitute be agreed to, the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statement related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 258), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

MULTINATIONAL SPECIES CONSERVATION FUNDS SEMIPOSTAL STAMP ACT OF 2009

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 486, H.R. 1454.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title. The assistant legislative clerk read as follows:

A bill (H.R. 1454) to provide for the issuance of a Multinational Species Conservation Fund Semipostal Stamp.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multinational Species Conservation Funds Semipostal Stamp Act of 2010".

SEC. 2. MULTINATIONAL SPECIES CONSERVATION FUNDS SEMIPOSTAL STAMP.

(a) *IN GENERAL.*—In order to afford a convenient way for members of the public to contribute to funding for the operations supported by the Multinational Species Conservation Funds, the United States Postal Service shall issue a semipostal stamp (hereinafter in this Act referred to as the "Multinational Species Conservation Funds Semipostal Stamp") in accordance with succeeding provisions of this section.

(b) COST AND USE.—

(1) *IN GENERAL.*—The Multinational Species Conservation Funds Semipostal Stamp shall be offered at a cost equal to the cost of mailing a letter weighing 1 ounce or less at the nonautomation single-piece first-ounce letter rate, in effect at the time of purchase, plus a differential of not less than 15 percent.

(2) *VOLUNTARY USE.*—The use of any semipostal issued under this section shall be voluntary on the part of postal patrons.

(3) *SPECIAL RATE.*—The special rate of postage of an individual stamp under this section shall be an amount that is evenly divisible by 5.

(c) *OTHER TERMS AND CONDITIONS.*—The issuance and sale of the Multinational Species Conservation Funds Semipostal Stamp shall be governed by the provisions of section 416 of title 39, United States Code, and regulations issued under such section, subject to subsection (b) and the following:

(1) DISPOSITION OF PROCEEDS.—

(A) *IN GENERAL.*—All amounts becoming available from the sale of the Multinational Species Conservation Funds Semipostal Stamp (as determined under section 416(d) of such title 39) shall be transferred to the United States Fish and Wildlife Service, for the purpose described in subsection (a), through payments which shall be made at least twice a year, with the proceeds to be divided equally among the African Elephant Conservation Fund, the Asian Elephant Conservation Fund, the Great Ape Conservation Fund, the Marine Turtle Conservation Fund, the Rhinoceros and Tiger Conservation Fund, and other international wildlife conservation funds authorized by the Congress after the date of the enactment of this Act and administered by the Service as part of the Multinational Species Conservation Fund.

(B) *PROCEEDS NOT TO BE OFFSET.*—In accordance with section 416(d)(4) of such title 39, amounts becoming available from the sale of the Multinational Species Conservation Funds Semipostal Stamp (as so determined) shall not be taken into account in any decision relating to the level of appropriations or other Federal funding to be furnished in any year to—

(i) the United States Fish and Wildlife Service; or

(ii) any of the funds identified in subparagraph (A).

(2) *DURATION.*—The Multinational Species Conservation Funds Semipostal Stamp shall be made available to the public for a period of at least 2 years, beginning no later than 12 months after the date of the enactment of this Act.

(3) *LIMITATION.*—The Multinational Species Conservation Funds Semipostal Stamp shall not be subject to, or taken into account for purposes of applying, any limitation under section 416(e)(1)(C) of such title 39.

(4) *RESTRICTION ON USE OF FUNDS.*—Amounts transferred under paragraph (1) shall not be used to fund or support the Wildlife Without Borders Program or to supplement funds made available for the Neotropical Migratory Bird Conservation Fund.

(d) *DEFINITION.*—For purposes of this Act, the term "semipostal stamp" refers to a stamp described in section 416(a)(1) of title 39, United States Code.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the committee-reported substitute amendment be agreed to, the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table, without any intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (H.R. 1454), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

UNITED STATES PATENT AND TRADEMARK OFFICES SUPPLEMENTAL APPROPRIATIONS ACT, 2010

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5874, received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5874) making supplemental appropriations for the United States Patent and Trademark Office for the fiscal year ending September 30, 2010, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Ms. MIKULSKI. Mr. President, I support H.R. 5874, the U.S. Patent and Trademark Office Supplemental Appropriations Act of 2010. This bill gives the Patent and Trademark Office additional funding to tackle the patent backlog, helping innovative businesses protect new ideas faster.

The Patent and Trademark Office is the central hub of an innovation

friendly Government. It protects intellectual property in the United States and encourages invention, innovation, and investment. New patents boost America's competitiveness, increase productivity, bring new products and services to market, support entrepreneurs and small businesses, and, most importantly, help to create new jobs.

As chairwoman of the Commerce, Justice, Science Appropriations Subcommittee that funds the Patent and Trademark Office, I have been critical of this agency's performance. The Patent and Trademark Office has struggled for years to reduce patent pendency and tackle the overall patent backlog. I have heard from inventors and businesses about how long it takes the Patent and Trademark Office to protect their ideas.

I have also heard from Patent employees about their unrealistic job performance standards which have led to high turnover of patent examiners. Numerous reviews conducted by the Government Accountability Office showed that for every two examiners hired one leaves the agency.

But the good news is that Patent and Trademark Office has new direction, and within the past year, the agency has made some very positive changes. Thanks to Director Kappos, employee management has been reformed, meaning more patent examiners are staying and working. The Patent and Trademark Office has also created a better strategy for approving patents quicker and reducing the patent backlog. We are finally seeing the Patent and Trademark Office make strides in the right direction, and I want to support this momentum.

This year, the Patent and Trademark Office will collect \$129 million more fees than originally expected. These extra funds mean that Patent and Trademark Office has the potential to further reduce the backlog even faster. H.R. 5874 allows the Patent and Trademark Office to spend this additional revenue. This amendment is fully offset by rescinding unused funds from the 2010 census.

This bill has the same goals as an amendment I offered this week to H.R. 5297, the small business bill, because improving patent protection is critical to helping innovative small businesses grow. This bill also mirrors the President's request he sent Congress on July 12, 2010, asking for these exact funds for the Patent and Trademark Office, offset by the rescission from the Census.

I urge my colleagues to support H.R. 5874, the U.S. Patent and Trademark Office Supplemental Appropriations Act of 2010. The Patent and Trademark Office needs to get back on track, and funding within this bill ensures the Patent and Trademark Office has the resources it needs to process applications in a reasonable time and keep critical examiners on board to continue issuing patents. By supporting this

bill, we can give American businesses and inventors a helping hand to stay innovative.

Mr. LEAHY. Mr. President, I am pleased that the Senate has acted quickly and in a bipartisan way to ensure that fees collected by United States Patent and Trademark Office, USPTO, are not diverted for other purposes this fiscal year.

The Director of the USPTO has done a remarkable job in his short tenure dealing with a massive backlog of patent applications and a serious budget shortfall. The action that Congress has taken today will at least provide short term financial help to the agency by ensuring that the USPTO is not penalized for having done more work this fiscal year than it had anticipated.

More needs to be done to modernize and improve our patent system, which is a crucial component of our economic recovery. Bipartisan patent reform legislation is ready for Senate action. This bill will provide the legal structure we need to allow our inventors to flourish. It will improve our economy and create jobs without adding a penny to the deficit.

While I strongly support the action the Senate has taken today, we cannot fix our overburdened and outdated patent system simply through additional appropriations. Congress must act on meaningful patent reform legislation this year.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5874) was ordered to a third reading, was read the third time, and passed.

POLYCYSTIC KIDNEY DISEASE AWARENESS WEEK

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 592, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 592) designating the week of September 13–19, 2010, as “Polycystic Kidney Disease Awareness Week,” and supporting the goals and ideals of Polycystic Kidney Disease Awareness Week to raise awareness and understanding of polycystic kidney disease and the impact the disease has on patients now and for future generations until it can be cured.

There being no objection, the Senate proceeded to consider the resolution.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the resolution

be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 592) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 592

Whereas polycystic kidney disease (known as “PKD”) is one of the most prevalent life-threatening genetic diseases in the world, affecting an estimated 600,000 people in the United States, including newborn babies, children, and adults, regardless of sex, age, race, geography, income, or ethnicity;

Whereas polycystic kidney disease comes in 2 forms, autosomal dominant, which affects 1 in 500 people worldwide, and autosomal recessive, a rare form that affects 1 in 20,000 live births and frequently leads to early death;

Whereas polycystic kidney disease causes multiple cysts to form on both kidneys, leading to an increase in kidney size and weight;

Whereas the cysts caused by polycystic kidney disease can be as small as the head of a pin or as large as a grapefruit;

Whereas polycystic kidney disease is a systemic disease that damages the kidneys and the cardiovascular, endocrine, hepatic, and gastrointestinal systems;

Whereas patients with polycystic kidney disease often experience no symptoms during the early stages of the disease, and many patients do not realize they have PKD until the disease affects other organs;

Whereas the symptoms of polycystic kidney disease can include high blood pressure, chronic pain in the back, sides or abdomen, blood in the urine, urinary tract infections, heart disease, and kidney stones;

Whereas polycystic kidney disease is the leading genetic cause of kidney failure in the United States;

Whereas more than half of patients suffering from polycystic kidney disease will reach kidney failure, requiring dialysis or a kidney transplant to survive, thus placing an extra strain on dialysis and kidney transplantation resources;

Whereas polycystic kidney disease has no treatment or cure;

Whereas polycystic kidney disease instills in patients the fear of an unknown future with a life-threatening genetic disease, and of possible genetic discrimination;

Whereas polycystic kidney disease is an example of how collaboration, technological innovation, scientific momentum, and public-private partnerships can—

(1) generate therapeutic interventions that directly benefit the people suffering from polycystic kidney disease;

(2) save billions of Federal dollars paid by Medicare, Medicaid, and other programs for dialysis, kidney transplants, immunosuppressant drugs, and related therapies; and

(3) open several thousand spots on the kidney transplant waiting list;

Whereas improvements in diagnostic technology and the expansion of scientific knowledge about polycystic kidney disease have led to—

(1) the discovery of the 3 primary genes that cause polycystic kidney disease and the 3 primary protein products of the genes; and

(2) the understanding of cell structures and signaling pathways that cause cyst growth, which has produced multiple polycystic kidney disease clinical drug trials; and

Whereas thousands of volunteers throughout the United States are dedicated to expanding essential research, fostering public awareness and understanding, educating patients and their families about polycystic kidney disease to improve treatment and care, providing appropriate moral support, and encouraging people to become organ donors: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of September 13–19, 2010, as “Polycystic Kidney Disease Awareness Week”;

(2) supports the goals and ideals of a national week to raise public awareness and understanding of polycystic kidney disease;

(3) recognizes the need for additional research into a treatment and a cure for polycystic kidney disease; and

(4) encourages the people of the United States and interested groups to—

(A) support Polycystic Kidney Disease Awareness Week through appropriate ceremonies and activities;

(B) promote public awareness of polycystic kidney disease; and

(C) foster understanding of the impact of the disease on patients and their families.

AUTHORIZING TESTIMONY OF SENATE EMPLOYEES

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 601, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 601) to authorize testimony of Senate employees in a grand jury proceeding in the District of Columbia.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, this resolution would authorize employees in the office of Senator JOHN ENSIGN to respond to subpoenas or requests for testimony by a Federal grand jury convened in the District of Columbia to investigate matters relating to Senator ENSIGN. The Senator would like to cooperate with this request. This resolution would authorize the Senator's staff to testify in these or related proceedings, except where a privilege should be asserted.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 601) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 601

Whereas, in a proceeding before a grand jury of the United States District Court for the District of Columbia testimony has been sought from employees of the office of Senator John Ensign;

Whereas, by the privileges of the Senate of the United States and Rule XI of the standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate, now, therefore be it

Resolved, That current or former employees of Senator John Ensign's office are authorized to testify in the grand jury proceeding or any related proceeding, except concerning matters for which a privilege should be asserted.

ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 308, the adjournment resolution, received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 308) providing for conditional adjournment of the House of Representatives.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 308) was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 1000, the nomination of RADM Sandra L. Stosz to serve as Director of the Coast Guard Reserve; that the nomination be confirmed and the motion to reconsider be made and laid upon the table; that upon confirmation, the President be immediately notified of the Senate's action, any statements relating to the nomination be printed in the RECORD, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

COAST GUARD

The following named officer for appointment to serve as the Director of the Coast Guard Reserve pursuant to Title 14, U.S.C., section 53 in the grade indicated:

To be rear admiral lower half

Rear Adm. (lh) Sandra L. Stosz

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

ORDERS FOR FRIDAY, JULY 30, 2010

Ms. LANDRIEU. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Friday, July 30; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two

leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Ms. LANDRIEU. Mr. President, there will be no rollcall votes during Friday's session of the Senate. Senators should expect the next vote between 5:30 and 5:45 p.m. on Monday, August 2.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Ms. LANDRIEU. If there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:58 p.m., adjourned until Friday, July 30, 2010, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate, Thursday, July 29, 2010:

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO SERVE AS THE DIRECTOR OF THE COAST GUARD RESERVE PURSUANT TO TITLE 14, U.S.C., SECTION 53 IN THE GRADE INDICATED:

To be rear admiral lower half

REAR ADM. (LH) SANDRA L. STOSZ

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.